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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. POMEROY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 7, 2007.

I hereby appoint the Honorable EARL POMEROY to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Shaken by the news of the sudden death of Congressman Paul Gillmor of Ohio and mindful also of the passing of former Members, the Honorable Jennifer Dunn and Charles Vanik, we turn to You, Lord God of the living and the dead.

In Your wisdom You called them and all deceased Members of this Chamber to serve their brothers and sisters in the backyards, fields, and streets of their districts, and yet represent them in this legislative body of the Nation.

Now called from this life, welcome them into Your presence, that they may enjoy the eternal justice and peace they sought here on Earth. Reward their public service with Your profound mercy and eternal rest. Comfort their families in this time of sorrow and loss.

God of faithfulness, enable all these who respectfully mourn now to press on with renewed faith and seek Your kingdom, trusting in Your loving guidance and the promise of eternal reward, both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Pennsylvania (Ms. SCHWARTZ) come forward and lead the House in the Pledge of Allegiance.

Ms. SCHWARTZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five 1-minute requests per side.

CHILDREN'S HEALTH AND MEDICARE PROTECTION ACT

(Ms. SCHWARTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHWARTZ. As the architect of one of the first children's health plans in the country, I have seen firsthand the success of these public-private, Federal-State partnerships. I am proud of our work here in Congress to make affordable health coverage available to an additional 5 million American children, while also protecting the health needs of our sense.

The Democratic Congress understands the health care challenges facing our Nation's working families. We heard their need and we responded. We passed a plan to expand access to qual-

ity, affordable health care for our Nation's children, while ensuring that our seniors receive the care that they have been promised.

It is unacceptable that 47 million Americans, including 9 million children, do not have access to affordable health coverage. It is unacceptable that American seniors are facing limits in access to doctors they trust and treatments they need, and it is unacceptable that President Bush and his allies in Congress are comfortable with that status quo.

It is time to act, and Congress has. We call on the President to stop working against us as we move to ensure health care for America's children.

BORDER SECURITY AND THE ALTAR OF GREED

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, it appears that in spite of Federal law that requires close inspection of vehicles and identification of people entering the United States, in the City of El Paso, Texas, border and Customs officials have been ordered to ignore some inspections. This Get-to-America-Quick plan requires that if pedestrian lines get too long, only 30 percent of them are to be questioned. If vehicular traffic waiting time is too long, then inspectors are to ignore some basic inspections for drugs and radioactive material.

According to Sarah Carter of the Washington Times, in some cases only every fifth driver and his documents are verified, all this in the name of letting more foreign nationals into the United States faster.

Why? Well, it seems some businesses are complaining the delays hurt their profits. So Federal bureaucrats are making border inspection officers ignore security, all in the name of the almighty dollar, or shall I say peso.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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This is yet another example of the incompetent attitude and lack of will on government bureaucrats to secure the American border. American border security should not be sacrificed on the altar of greed.

And that's just the way it is.

AMERICA WANTS A NEW DIRECTION ON IRAQ

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, the previous days have offered a series of reports on conditions in Iraq. These reports have been consistent: Iraq remains dangerous, unstable, and political progress is virtually nonexistent.

It wasn't supposed to be this way. The President's escalation was supposed to give the Iraqi Government and the ethnic groups the room they needed to make political progress. That progress simply has not happened.

So now, after 4½ years, billions of dollars, thousands of lives, and countless new slogans, the Bush administration is just giving us the status quo. Instead of a new strategy for Iraq, the Bush administration is cherry-picking the data to support the political objectives and preparing a report that will offer yet another defense of the President's strategy.

We don't need a report that wins a Nobel Prize for creative statistics or the Pulitzer Prize for fiction. Americans are demanding the facts, an end to this open-ended commitment, a surge on the political and diplomatic front. In short, the American people want a new direction in Iraq.

TRIBUTE TO PAUL GILLMOR

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, earlier this week the House of Representatives lost a giant, and the people of Ohio and indeed all Americans lost a true legislative workman with the passing of Congressman Paul Gillmor.

When I first was elected to this House, I was told by former President Gerald Ford, who served with distinction here for many, many years, that there are two types of representatives: The workhorse and the show horse. The show horse, you see their face on TV all the time and they issue bombastic press releases. It is the workhorses that get the work done in this Chamber for the American people.

Paul Gillmor was a workhorse. Not only was he a workhorse and a true legislative craftsman, but he applied what those of us who live in the upper Midwest refer to as Midwestern common sense. We think that we have maybe more of that than those that live in other parts of the country. But Paul's Midwestern common sense

meant that the legislative activities that he was engaged in were done professionally and were done for the benefit of all Americans.

I am sorry to see Paul pass. We have all lost a giant. Cheryl and I send our condolences to his wife and his children.

9/11 HEALTH CRISIS IS A NATIONAL PROBLEM

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY of New York. Mr. Speaker, 6 years ago the terrorist attacks of 9/11 were an act of war against our entire Nation, not just New York. The whole country was touched; and in the aftermath, people came from every State in the Nation to assist in the massive rescue and recovery efforts. All of these people from all of these States were all exposed to the same deadly toxins.

While press reports may question the size and scope of the problem, there is no doubt that there are thousands who are ill because of their exposure. Whether these brave firefighters and fire officers and EMTs came from California, Michigan or Florida, they all breathed the same toxic air.

This map shows how many people from each State are enrolled in the World Trade Center Health Registry; over 71,000 people from every single State in our Nation. At least 28 even came from Hawaii. The list goes on and on.

But the message of the map is clear: The 9/11 health crisis is a national problem, and it deserves a strong Federal response.

SUPPORT THE HOMELESS EDUCATION IMPROVEMENT ACT OF 2007

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute.)

Mrs. BIGGERT. Mr. Speaker, I rise today to address an issue that means a great deal to me, the education of homeless youth.

Shortly before the August recess, this House overwhelmingly passed a resolution commemorating the 20th anniversary of the McKinney-Vento Homeless Assistance Act. In addition to recognizing the positive impact of McKinney-Vento, this resolution called on policymakers to unite behind certain common goals for the future. One of those goals is to improve the access of homeless children and youth to education in the public schools.

In order to meet this goal, I invite my colleagues to cosponsor a bill that I recently introduced with Representatives SARBANES and GRIJALVA, H.R. 3205, the Homeless Education Improvement Act of 2007. The bill will extend and improve the successful homeless children and youth programs in NCLB.

Mr. Speaker, being without a home should not mean being without an edu-

cation. I strongly encourage my colleagues to cosponsor the Homeless Education Act.

BRING OUR TROOPS HOME

(Ms. MOORE of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOORE of Wisconsin. Mr. Speaker, I am compelled to come before the body today to talk about my deep concern about our continued engagement in Iraq.

In the past 4½ years, we have gone from "mission accomplished" to "mission untrue," and, in the words of one of our colleagues here on the Republican side, to "mission unknown." In fact, we are arming and fueling this growing civil war.

We have found Shia on Shia violence, Sunni on Sunni violence and Shia on Sunni violence. Our troops have no idea what the mission is anymore. I would submit, Mr. Speaker, that this is "mission impossible." It is time to bring our troops home.

Just recently we found that 190,000 weapons are unaccounted for. There are plenty of weapons in the ministry of interior, which has come to be a police force against our own troops.

Mr. Speaker, we need to bring our troops home.

SUPPORT THE CHARLIE NORWOOD CLEAR ACT OF 2007

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute.)

Mrs. BLACKBURN. Mr. Speaker, today I am introducing the Charlie Norwood CLEAR Act of 2007. Our late friend and colleague, Representative Charlie Norwood, introduced common-sense legislation to institute an efficient system, an efficient system, of identifying and detaining criminal aliens. Our good friend is gone, but his idea remains as viable today as it was the day that he first introduced it in the 108th Congress.

There are 400,000 alien absconders in our country, with 285,000 possessing criminal records. This bill targets those criminals by increasing Federal funds to local law enforcement agencies that need those funds, providing police that are on the beat with the resources they need and giving them the background, the information, to enforce immigration law.

It also cuts funding to sanctuary cities which have enacted laws prohibiting local police from detaining and arresting criminal aliens. Most notably, it requires the Federal Government to take these criminal aliens into custody within 48 hours.

Join me in supporting the Charlie Norwood CLEAR Act of 2007.

□ 0915

PROVIDING FOR CONSIDERATION
OF H.R. 1908, PATENT REFORM
ACT OF 2007

Mr. WELCH of Vermont. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 636 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 636

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1908) to amend title 35, United States Code, to provide for patent reform. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to reconsider with or without instructions.

SEC. 2. During consideration in the House of H.R. 1908 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Vermont is recognized for 1 hour.

Mr. WELCH of Vermont. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN

DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. WELCH of Vermont. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Res. 636.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. WELCH of Vermont. Mr. Speaker, I yield myself such time as I may consume.

H. Res. 636 provides for consideration of H.R. 1908, the Patent Reform Act of 2007, under a structured rule. The rule provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Judiciary Committee. The rule makes in order and provides appropriate waivers for five amendments: a bipartisan manager's amendment, three Republican amendments, and one Democratic amendment.

Mr. Speaker, H.R. 1908 is a necessary bill and landmark legislation. The last time that our patent laws had been substantially updated was 1952, over a half century ago. Much, obviously, has changed in the United States and the world in those 50 years, and that is quite an understatement. Unfortunately, the U.S. patent law has failed to keep up.

Before I discuss the merits of the underlying bill, I must commend Chairman CONYERS, Subcommittee Chairman BERMAN and Ranking Member Mr. SMITH for their tireless work on this bill. It has not been easy to make the reforms that are so intricate and complex in such a complicated system, but these gentlemen worked hard with their committee and did so admirably, bringing to us a patent reform bill that is going to move America forward.

I would also be remiss if I did not acknowledge the tremendous contribution of Senator LEAHY, who happens to be someone I am particularly proud as he is the senior leader of our delegation here in Congress. As chairman of the Senate Judiciary Committee, he spent years working on the patent system and has become a driving force behind getting this legislation to the floor.

All of us, I believe, in this House see this bill as major progress in reflecting a commitment to the protection and support of the Nation's intellectual property. This system was built to sustain and protect the nuts and bolts of the American economy, our ideas and innovations.

The legislation does enjoy very strong bipartisan support. Both Ranking Member SMITH and subcommittee Ranking Member COBLE, who have done great and hard work, are cosponsors. It is the product of 4 years of hearings, debates, negotiations, and compromises. Since 2001, there have been over 21 hearings on patent issues

at the subcommittee level, and the subcommittee chairman and ranking member sought input from, among others, the Federal Trade Commission, U.S. Solicitor General, National Academy of Sciences, and businesses ranging from high tech and biotech companies to traditional manufacturing and pharmaceutical companies, as well as from our university community and from labor.

H.R. 1908 reforms our outdated patent system, which currently encourages patent speculation, increases litigation, often harms small inventors and impedes innovation.

First, the legislation moves the United States into a pure first-to-file patent system. Right now the United States is literally the only major industrialized country to retain the first-to-invent system. This change from first-to-invent to first-to-file will inject clarity and certainty into the process and relieve the U.S. system of some extremely burdensome requirements such as protracted interference proceedings often costing up to a million dollars to determine which of many applicants deserves a patent and detailed record keeping. Both of these often disadvantage smaller inventors who might not have the resources to initiate such proceedings.

This change to a first-to-file system puts the U.S. in sync with every other industrialized country. Greater harmonization is obviously going to make it easier for U.S. inventors to secure patent rights in other countries as international patent protection becomes increasingly important to their ability and the ability of United States inventors to compete on a level playing field.

Next, this legislation makes important improvements to the patent system by which patents can be reexamined. By providing for reexamination of issued patents, H.R. 1908 eliminates the ability to intentionally "game the system" by speculating on the issuance of very poor-quality patents, nothing added to the intellectual capital of this country, but used as a device to increase private gain. This provides a streamlined alternative to costly patent litigation. This ability to have a quality check on patents that have already been issued is crucial to the integrity of the patent system as patents of questionable value can stifle innovation.

Companies around the country are much like some companies that operate in Vermont, including IBM, which has been a leader in the number of issued patents for the past 14 years in our State. They were awarded in 10 years 3,621 patents in the U.S. in 2006; 360 of those, fully 10 percent, came from the IBM office in Essex Junction, Vermont. That is 10 percent of their total patents from Vermont alone. They have been in business for decades, and improving the quality and security of the patent system is extraordinarily important to them, and obviously to

other individuals and companies large and small around our country.

This bill also allows third parties to submit documents relevant to the examination of a patent application. This provision addresses the growing concern that patents have been issued on inventions that were publicly known and in prior use to the filing of the application. This is particularly important in the newer areas of technology in fields that do not yet have a fully well-developed tradition of publishing findings such as computer systems and software and business methods.

Finally, this bill makes some crucial improvements to the calculation and apportionment of damages. H.R. 1908 allows for the reasonable royalty calculations that more accurately reflect the value of any invention that is being infringed. Our patent system is far too important to be behind the times. Quality patents must continue to be issued. They must continue to be protected for those who have legitimately created a new invention.

This legislation is a huge step in modernizing this system for decades of American innovation to come. I urge my colleagues to support this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would like to thank the gentleman from Vermont (Mr. WELCH) for the time, and I yield myself such time as I may consume.

When the Founders of this great Republic drafted our Constitution, they had the revolutionary vision that brought us this great and vibrant representative democracy that has lasted over 200 years. Included in the landmark Constitution that has served our Nation so marvelously is a provision that gives us, the Congress, the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." This provision receives little attention; but over the last two centuries it has played a critical part in the growth of the economy and the power, the wealth of the United States. Today, American intellectual property is worth over \$5 trillion, more than that of any other country in the world. It also comprises more than half of all U.S. exports, driving almost half of the Nation's economic growth.

As Mr. WELCH so eloquently stated, the last time Congress overhauled the patent system was over 50 years ago. Since then the fundamental underpinnings of our economy have undergone dramatic changes. But the patent system has remained generally static and now faces some difficulty in meeting the needs of our dynamic economy. So we must reform our patent system in order to meet the needs of our economy here and in the global marketplace, but we must do so in a way that protects, that continues to

protect the intellectual property rights of all inventors and industries.

Today we are debating changing the system that President Abraham Lincoln called one of the three most important developments in world history. Yet on such a truly significant piece of legislation, legislation that will affect our economy for decades, the Rules Committee majority has severely restricted the input of Members of this House, the input that they can have on this extraordinarily important piece of legislation.

The rule brought forth by the majority allows only five amendments, five of the 14 amendments submitted. I submitted to you, Mr. Speaker, that is no way for the House to debate this important legislation. The majority should bring this bill to the floor with the opportunity for all Members to present their ideas, their proposals, their amendments, for the consideration of all of our colleagues. The majority should bring this legislation to the floor under an open rule.

I remind our friends of one of the central tenets of their campaign last fall. They said they would run the Congress in a more open and bipartisan manner. In fact, on December 6, 2006, the distinguished Speaker, Congresswoman PELOSI, reiterated her campaign promise. She said: "We promised to the American people that we would have the most honest and open government, and we will."

□ 0930

Here we are again with a restrictive rule, even on such a significant piece of legislation as the reform of our patent system.

The majority, Mr. Speaker, unfortunately is not living up to its promises, and it is the duty of the minority to remind the majority of when the majority falls short of the majority's promises.

It was quite clear from the testimony at the Rules Committee yesterday, very interesting testimony, very enlightening. It's been years in the making this legislation. There are Members of our Congress that have put a tremendous amount of effort and study and time into this critically important issue.

It was evident at the Rules Committee that this bill was drafted in an open manner, in a bipartisan manner. Why not thus continue the bipartisanship that has forged this important piece of legislation, why not continue that bipartisanship here on the floor today with an open rule?

Notwithstanding how Members may feel about the underlying bill, Mr. Speaker, I would urge all of our colleagues to vote against this rule, vote against this rule so that we can have a full and open debate on this important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I yield such time as he may con-

sume to the gentleman from California (Mr. BERMAN), chairman of the Intellectual Property Subcommittee.

Mr. BERMAN. Mr. Speaker, I thank my friend from Vermont for yielding me the time and for his really very complete discussion and understanding of the legislation which is now at stake, and I rise in strong support of this bill and particularly the rule.

I might point out in context of the rule that, as the gentleman from Florida suggested, 14 amendments were offered. A number of those amendments, five of them, were made in order, and a number of the other amendments were worked out and are part of the manager's amendment. So many of the issues raised in the context of openness are continuing up to this point.

This has been both a bipartisan process, and I might suggest with respect to the people who are supporting the product of this bipartisan process, the rule is being supported on a bipartisan basis.

When functioning properly, the patent system encourages and enables inventors to push the boundaries of knowledge and possibility. I support strong, robust protection for quality patents. However, when the system functions improperly, such as allowing an overly broad or obvious patent, the patent systems can stifle innovation and harm America's competitiveness in the global economy.

Such patents cover arguably obvious inventions. An example is crustless peanut butter and jelly sandwiches for which a patent was obtained. However, the much more insidious and troubling kinds of poor quality patents are the ones that are granted which impede commerce or further invention because they create a patent thicket so wide and so dense that an entire industry or segment of our economy becomes subservient to a single patent from a single innovator.

Many groups, agencies and citizens have written volumes on the need for reform, the United States Patent and Trademark Office, the Federal Trade Commission, the National Academy of Science, the Intellectual Property Owners Association, the American Bar Association Intellectual Property Division and the American Intellectual Property Association. All of the studies concluded that the current system is in need of changes if it is to remain viable in the new technology global economy. The moment is ripe to move the patent system forward to meet the challenges of the 21st century. Serious flaws have to be fixed for our system to remain robust now and long into the future.

As the gentleman from Florida acknowledged in his comments which preceded mine, this legislation is the result of a substantial amount of work, not just over this Congress but over the past three Congresses. We did not undertake this endeavor lightly. This isn't a rush to judgment. It isn't a rush to legislate.

We don't claim that this bill at this point is perfect, but this remains only one step in the process. Like all compromises, not everyone received everything they wanted, which is honestly just as it should be. This legislation favors no industry, no person, organization or interest group. It seeks to solve problems that we have identified and have been identified for us by outside experts and agencies. The legislation does what is best for America and our spirit of inventiveness and innovation, and it protects our position within the increasingly competitive global marketplace.

RICK BOUCHER and I started down this path a long time ago, since that time working very closely with the then-chairman of the subcommittee and now the ranking member of the Judiciary Committee, LAMAR SMITH; with our subcommittee ranking member and former chairman of the subcommittee, HOWARD COBLE. We have held 20 hearings over 6 years. We've invited or heard from independent inventors, universities, large corporate entities, pharmaceutical companies, high-tech companies, manufacturers, the financial services industries, biotech companies, the U.S. PTO, the ABA, the Intellectual Property Organization, judges of district court and at appellate levels, economists and consumer groups. All views were heard and considered to arrive at a bill that we have before us today, and this is a good bill.

There will be four more suggestions made for changes to the bill, amendments by Mr. ISSA, Ms. JACKSON-LEE and Mr. PENCE. These amendments add valuable changes to the bill. I won't go into detail now in discussing those amendments, but they address issues raised by small inventors and by people who want to make sure that the PTO rulemaking authority has adequate oversight by the Congress.

I urge my colleagues to grant us the rule, to take this important piece of legislation and move it forward. And my commitment to everyone in this Chamber is to recognize that there are still issues that need to be worked on and that we will be working to try and achieve the best possible balance without undercutting the need for fundamental reform that exists.

I urge my colleagues to adopt the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this time, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished ranking member of the Rules Committee.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank my friend for yielding and I would like to begin by expressing my appreciation to my friend from Miami for his very thoughtful and eloquent statement going back to 1790 and the role that patents have played in the very founding of our country.

I want to say also, as I look around the floor and think about the Rules Committee meeting that we had, I see the distinguished gentleman from Maine (Mr. MICHAUD) who was joined by Mr. MANZULLO in the Rules Committee last night, my good friend from California (Mr. ROHRBACHER), who was here on the floor.

What I will say is that there is bipartisan support for this bill, Mr. Speaker, as my good friend from California (Mr. BERMAN) correctly said, but there's also bipartisan opposition to this bill, Mr. Speaker, and it is for that reason that I believe it is absolutely imperative that we do, as Mr. DIAZ-BALART has pointed out, have the most open and transparent process imaginable in dealing with what is seen as a very dull issue. It leads many people to doze off or their eyes to glaze over when talking about patent law, but it is a critically important issue when we think about the basis of the United States of America and property rights and all.

While I intend to support final passage of the underlying legislation, a great deal of concern has, in fact, been raised on a number of issues included in this bill, as I said, making it a perfect example as to why this fully open and transparent legislative process, which unfortunately this restrictive rule denies, is a mistake and shouldn't be done.

The underlying bill deals with a tremendously critical and fundamental aspect of our economy. It addresses a significant problem but in a way that has raised concerns, and it involves incredibly arcane and technical policy. For all of these reasons, we should be allowing a full and open debate, and I see my friend Mr. GOHMERT here who I know has also joined in raising very grave concerns about where it is we're going on this issue.

We should be encouraging a greater flow of information, not cutting it off, and unfortunately, this restrictive rule does just that.

Ensuring both the protection and the quality of patents is absolutely essential in our high-tech, knowledge-based 21st century economy. A cursory glance at the state of patent litigation is all it takes to see that we haven't gotten it quite right. Patent trolls acting maliciously and bewildered juries facing impossibly technical cases have wreaked a great deal of legal havoc on many of our Nation's great entrepreneurs.

The result has been to stifle innovation, the lifeblood of our economy. We've seen some of the worst cases eventually reversed on appeal, but many others have not been. There's no denying that there is great need for reform in our patent law system.

However, the underlying bill before us today is not perfect. Real concerns have been raised by a number of innovators and research institutions, many of whom are critical, in this effort, from my State of California, but critical to our economy and our place

as one of the world's greatest fonts of innovation and entrepreneurship.

We have to be very careful that as we address one problem we don't create another. We have to be very careful that we don't pick winners and losers in our patent system, but that we protect and uphold intellectual property of all kinds.

The creators of computer hardware, the developers of revolutionary medical treatments, for example, use patents in very different ways. A piece of hardware may include hundreds of patents, some of which will be obsolete practically before they hit the shelves.

On the other hand, a biomedical firm may spend \$1 billion over a decade developing a single product using a single patent. Now, Mr. Speaker, these two types of innovators use patents in very different ways, but what they have in common is that intellectual property and innovation are at the very heart of their work, and they both contribute significantly to our economy and to our rising standard of living.

We must ensure that our patent system protects both kinds of innovation. While I strongly support the need to move this process forward, these are real concerns that must be fully aired and openly debated. I find it troubling that unlike previous legislation dealing with the issue of patent reform, this bill does not enjoy broad-based support among all types of intellectual property creators. Because consensus was not reached in the committee process, it is all the more important that our floor debate be conducted in an open and transparent way.

Yesterday in the Rules Committee, as my friend from Miami said, I proposed that we report out an open rule so that we could, in fact, have a full debate on these issues. Unfortunately, on a party-line vote, that proposal was denied.

We also heard, as I mentioned, from our colleagues, Mr. MANZULLO and Mr. MICHAUD, who were requesting at least two hours of general debate, divided not just between Republicans and Democrats on the Judiciary Committee, but between supporters and opponents of this bill. Again, as I said, it is bipartisan, the opposition, as well as bipartisan, the support, for the bill. That request unfortunately was also denied.

Absent a meaningful debate today, these concerns will have to be raised in the Senate and in the Conference Committee. It's unfortunate that our Democratic majority has so little institutional pride that they continuously deny this body an open debate and cede the hard work to another time and another place.

That is why I'm encouraging my colleagues to oppose this restrictive rule. We shouldn't be running away from a fair and honest debate of these tough issues. The underlying bill and the issues it addresses are too important for us to be shirking our responsibilities.

So, Mr. Speaker, I urge my colleagues to reject this rule, and let's have a real debate on this very critical matter. And I, again, thank my friend for yielding.

□ 0945

Mr. WELCH of Vermont. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. I thank the gentleman for yielding.

Mr. Speaker, I rise today in opposition to this rule, and I ask my colleagues to consider voting against this rule for one simple reason, and that's time. I respect the work of our Rules Committee; I do not oppose this rule lightly.

But the fact of the matter is, under this rule, we would begin debating a huge change to our patent system that would have major ramifications for our economy. We have just returned from a long work period in our districts. We found the committee report filed late in the day when we came back, and two manager's amendments filed late yesterday. Most Members haven't had time to understand what the manager's amendment fixes or doesn't fix.

I can tell you, having worked all night late last night with staff to find out what the manager's amendment does: it actually worsens the underlying bill, especially with respect to the damages section of this bill. But Members aren't going to be given the time to really consider what the manager's amendment does or what it does not do. They are going to be told to trust the changes that have been made to fix a badly flawed legislation.

Congressman MANZULLO and I went to the Rules Committee yesterday to request that we not vote on this bill because it's not ready for floor action. We asked for more time to debate the bill in order for the opposition to be heard. We were denied. With over 300 organizations who are opposed to this legislation, have very serious concerns about this legislation, it is important that their voices be heard in this debate.

We do need to address our patent system, and we must have the time to do it and do it right. By voting down this rule, we would give this House and the American people the time to make the right choices for our innovators, our jobs, our economy. So I would urge a "no" vote on the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the rule.

I am pleased that the Baldwin amendment was included in the manager's amendment. The Baldwin amendment deletes the prior user rights section from H.R. 1908, leaving current law on prior user rights intact.

H.R. 1908, as considered in committee, encouraged a resort to trade se-

cret practices which would have bred litigation and chilled publication and disclosure, which are the constitutional principles underlying the entire patent system.

The Patent Reform Act, as originally drafted, would not have made for a good situation for innovation. It would have been detrimental to individual inventors, small businesses, nonprofits, including research universities. Although I plan to vote in favor of the Patent Reform Act, I have serious concerns about the process that we have used to reach floor action today.

IPR law changes have always been negotiated in the subcommittee until this year. This bill should have been vetted in subcommittee. Instead, the subcommittee simply passed the buck to the full Judiciary Committee. Ramrodding this bill through subcommittee left a lot of unhappy people thinking that the train had left the station.

The subcommittee Chair should have kept the bill in his subcommittee. Keeping it in subcommittee works, even though the process may take more time.

As we realize, moving it forward with so many loose strings makes it quite easy for the whole thing to unravel. It's essential that subcommittee members work out problems in the subcommittee and not jam stakeholders.

I believe that by holding onto this bill a little longer, we could have applied pressure to the stakeholders and moved them to our common ground. The volume of e-mails and calls we have received from interest groups, which number in the hundreds, clearly indicates that we don't have everybody on board. Much of this opposition could have been avoided.

At subcommittee, the Chair told us that concerns would be addressed at full committee. The Chair then assured us that concerns would be worked out in the manager's amendment prior to floor action. While concessions have been made, this bill still needs work and isn't ready for prime time. Later today, during debate on the bill, I expect Members' concerns to be brushed off and told that everything will be worked out in conference.

I served as Chair of the Judiciary Committee for 6 years, and I know all too well how elusive compromise can be. But that doesn't mean that we should throw in the towel or simply lower a shoulder and plow forward.

I prevented my Courts and Intellectual Property Subcommittee Chair from moving forward on patent form until we could reach agreement with all the interested parties, and that is what we should have done here. Patent reform is vital to our Nation's economy. The House should not take up this legislation at odds with so many sectors of the economy for the benefit of others.

The other body is continuing to entertain stakeholder meetings to try to develop consensus, and I commend

them for that. This would be a wise course of action for the House as well. I believe that with more time and energy, we could draft a bill that is supported by a large cross-section of America, which this bill is not.

The process that we took to get here today was flawed, but it's not too late to correct it.

I encouraged the Chair and the ranking member to continue to meet with stakeholders. That's the way to get a good patent bill that is really a 21st-century innovation-inspiring bill enacted into law.

Mr. WELCH of Vermont. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 4 minutes to the distinguished gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. I thank my friend from Florida.

Mr. Speaker, we have heard the term "bipartisan" with regard to this legislation, and as has been pointed out, there has been bipartisan support; but there has certainly been bipartisan opposition.

Bipartisan, to many out there in the United States, means, oh, it must be fair. But the truth is, bipartisan doesn't mean fair, and it doesn't mean good; and this is one of those pieces of legislation that has severe problems that are neither fair nor good.

Now in committee, the process involved a manager's amendment being made in the Committee of the Whole of the Judiciary Committee, followed immediately by an amendment to venue before anybody else was recognized so that an effort by me to have an amendment to fix venue problems that were really pronounced was shut out because that automatically made those third-degree amendments.

That seemed to me a strange effort to avoid fairness on this important bill. We come in here today with this restrictive rule which will not allow full debate and wonder why is there such haste to avoid fairness in this rule. The rule here even abrogates the House rule that requires half the time be provided to the opposition, by saying it will be controlled by two people who both support the bill.

Again, why is there such a push to avoid fairness in consideration and debate on this bill? "We need a comprehensive bill" is language we have heard over and over. What struck me was, gee, that's what we heard about the immigration debate: we need a comprehensive bill. Why was that said about immigration? I submit it was said because there were things that people wanted to hide in a comprehensive bill that could never pass on its own.

So I begin to look at this bill, and it appears to have the same problem. There are things in here that don't go to fix patent controls. There is such an overreaching effort here to change rules and help the big dogs just devour and destroy the little guys.

Now the patent control issue, that's a problem. Boy, how easy to fix that. All you would have to do is say if you are not the original patent holder and inventor, then your rights are restricted. But that keeps being thrown out as a basis to destroy and change and use a wrecking ball to the entire patent law.

The damages issues need a further look. My goodness, for so many years now the patent issues have been guided by factors that allow the courts to consider various types of damages. Now we have had one industry zero in on one time of damage that will help them and hurt all others. That's not fair.

We were told that in the Judiciary Committee that many of us, by name, were called who would help the language. Since then, I have not heard of any meetings to work on language. My staff has not heard of any.

Yet, we are told in here today, trust us, we are going to work together. This isn't the last time. I have heard over and over on that bill, and to come to this point, where there is so much substantial unfairness and abrogation of the fairness doctrine on taking up legislation concerns me all the more.

This isn't fair. It's not good. It's not right. It's not timely to take this up without proper discourse.

With that, I would ask that trust has not been earned. Therefore, people should vote against this rule on a bipartisan basis.

Mr. WELCH of Vermont. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 4½ minutes to the distinguished gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. Mr. Speaker, I rise in strong opposition to the rule, as well as opposition to the underlying legislation.

Let us note that this debate has been limited today, which is consistent with the substance of this legislation. The process, as well as the substance of H.R. 1908 is totally unacceptable. This bill should be called the Steal American Technologies Act Part 2.

Yes, Mr. BERMAN and I have worked on this legislation over the years, and I thought that we had a compromise bill in 1999, with HOWARD COBLE and others; and this bill just negates all of the compromises that were made and the honest attempts to reach a good patent bill.

Yes, there was a patent bill that was passed and went into law in 1999, let us note. This isn't the first patent reform legislation in the last 50 years; it's only the worst patent reform legislation over the last 50 years. This legislation, under the guise of reform, will dramatically diminish the constitutionally protected rights that were mandated by our Founders and that have been the impulse behind our Nation's prosperity and security.

H.R. 1908 will dramatically weaken the patent rights of ordinary Americans and make us even more vulnerable

to the outright theft of American-created technology and innovation. This legislation represents a slow-motion destruction of our patent system.

So what's in the bill? First and foremost we know what's in the bill is a mandate to publish every patent application within 18 months, or after 18 months of that application being applied, whether or not that patent has been granted.

So we are giving every thief in the world in India and in China and Japan and Korea the details of our most up-to-date innovative ideas, even before they are protected by the patents. We are being told, of course, Mr. ISSA has an amendment that will handle this.

Don't be fooled. Whether or not the Issa amendment passes, this legislation will still mandate the publication of most patent applications before the patent is issued.

America's secrets will be exposed to a world filled with infringers and thieves. So don't be fooled by the Issa amendment, just the way we shouldn't be fooled by the very nature of this bill being called a reform bill when it should be called the Patent Destruction Act.

Secondly, this bill opens up new avenues of attack before and after the patent has been issued, again weakening the inventor, strengthening the infringers, both foreign and domestic.

Third, the bill changes the criteria of deciding the validity for a patent, again at the cost of the inventor. Fourth, the bill changes the way damages are calculated, again, at the expense of the inventor, and in the process creating havoc in our courts and forcing judges to be economists.

The most fundamental of all, of course, we change the legal basis of our system from first-to-invent, which has been, historically, for 200 years, the basis of the patent system, and now we are changing it to first-to-file, the way they do in Europe and in Japan. Do we really want to have a country like Japan? Look at their creative history. They rely on all of our ideas to perfect.

In short, every promise of H.R. 1908 is anti-inventor, and every provision weakens the right of inventors and undermines one's ability to protect his or her invention. The electronic and financial industry billionaires who are pushing this are pushing it to facilitate their theft of new innovation. Yes, these guys are important to our economy, but the opposition to H.R. 1908 from the other economic sectors in our economy is deep and wide.

Many of those quoted by Mr. BERMAN as having testified in these hearings are opposed to this bill. Biotech, pharmaceuticals, labor unions, universities, small businesses, all are against, adamantly against, this bill. Let us protect the little guy from foreign and domestic scavengers who would steal our country's newest ideas from the best and most creative minds of our country.

I urge my colleagues to oppose this legislation and this rule.

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Mr. WELCH of Vermont. Mr. Speaker, I continue to reserve.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 4 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, we are hearing this argument, let's just fix it in conference. Well, the last patent reform bill that passed, H.R. 1561, passed the House on March 3 of 2004. The Senate Judiciary Committee passed their bill, but it never saw action before the full Senate. The bill that the House passed never made it to conference, but it became law because someone stuffed it into the giant multi-thousand page omnibus consolidated appropriations bill which became law.

And besides that, we are Members of Congress. For us to stand up here and say, well, this is too confusing for us to understand, excuse me; that's what we're paid for. And if we have to take a considerable period of our time to study and learn patent law, that's our job. If we don't do that, we are failing in our obligation to the people that we represent.

So, what happened last time was good for making sausage. You stuffed the House-passed bill which never passed the Senate, never made it into conference, into a giant omnibus bill, but that's not how you make legislation.

Now, look what's going on here. We were told that we had to file by 5 p.m. on Wednesday afternoon any amendments to this bill. I went to the Rules Committee at 3 p.m. yesterday, where we met on the bill. At 2:43 p.m., the first manager's amendment was filed, 18 pages long. While we were still discussing the first manager's amendment, the second manager's amendment got filed at 3:50 p.m.

At 5:30 in the afternoon, the general public found out what was in it. I just found out in an analysis done on the second manager's amendment that this would be crippling to the small inventor. It would be horrifying to the patent holders in this country, that it would favor overseas patent holders as opposed to the American inventor.

All I asked for in that Rules Committee was for an extra hour of debate, just 2 hours of debate on one of the most important topics this place has ever had, and we were denied that. And people turn on C-SPAN. They see us. We'll take a half an hour to debate a post office, an hour to debate two post offices, the naming of the post offices, but 1 hour, just 1 hour to debate one of the most important issues that has ever come before this Congress in 50 years, 50 years. That's just fairness. Just fairness is all we're asking for.

I feel like asking for a motion to adjourn, but I'm not going to. That would not be fair to the Members that have other things to do.

But to tell the American people the Members of Congress really don't need

to know the details, that we'll take care of the details for you, that's an abandonment of our obligation here.

We come here with the obligation to learn every issue on which we vote. We may not know all the nuances, we may not know all the details, but nobody's going to tell us that this is too confusing for you to understand, because that's not what the American people send us here for.

And so I would just urge you, urge the folks, that there is no way possible in the limited amount of time that we can discuss this bill.

Let me show you what this does. This is Caterpillar, this is RIM. It puts two companies against each other. RIM has a lot of American parts. The bill should be written to accommodate both, to accommodate the American inventions in both of these manufactured products.

Vote "no" on the rule.

Mr. WELCH of Vermont. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS), Chair of the Judiciary Committee.

Mr. CONYERS. Mr. Speaker, I thank the manager, and I rise to congratulate all the Members for all the hard work that has been done in the course of the many months, some would say years, in bringing this to the floor.

I'd just like to make a comment about the manager's amendment that I've heard raised in the discussion because, actually, I thank the floor manager of the Rules Committee on the Republican side because we had, I thought, a very good meeting yesterday.

It should be known to everyone here that the reason we had the late filing of the manager's amendment is that we were keeping it open for everybody to make their last changes. And most of the requests came from the minority side, which we were happy to accommodate. So it's in that spirit that I refer and make available to everybody here everything that are in manager's amendments, and hope that the fact that this is maybe 80 percent accomplished for almost all the many sides to this debate will carry us through the rule and through the spirit that has moved the committee and the subcommittee and the Judiciary Committee this far.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from California (Mr. ISSA), a member of the Judiciary Committee.

Mr. ISSA. Mr. Speaker, I appreciate the gentleman yielding. The fact that this is what one might consider Democrat time being yielded to a Republican probably says just how bipartisan this bill is. This has been worked on in a Republican majority and in a Democrat majority. It's been cosponsored by the chairman and the ranking members of the committees. It is, in fact, an unusual piece of work.

Additionally, this rule, and I've been voting against rules lately because they weren't open and fair. This rule accommodated virtually every amendment offered. In fact, many of the people speaking here today against the bill and against the rule didn't offer any amendments.

Whether you're on the committee or not, this is your opportunity, after nearly 4 years of this being an open process under leadership on both sides of the aisle, this is your opportunity, if you have solutions.

I urge the passage of this rule and the passage of the underlying bill because, in fact, it is the best work the best minds on both sides of the aisle could produce over 3 years.

Now, people who, in fact, are saying they don't want to vote for it are saying we just need more time. In fact, the engine that drives the economic wealth of our country cannot afford for us to simply let the men and women in black robes continue to try to patch a broken system, as the Supreme Court has done. Not moving in this Congress, and rapid pace could be another year, including the other body. Not moving in this Congress would force the Supreme Court to deal with an out-of-date set of laws. We need to vote this bipartisan bill through a very positive rule, and then to final passage.

I strongly recommend that people look at the fact that amendments were accepted by both sides of the aisle, and, as the chairman said, more were accepted by the Republicans, in addition to literally hundreds of suggestions being incorporated into the manager's amendment.

I move that we pass the rule, pass the underlying bill, continue a bipartisan process that, of course, will always have somebody who feels they're not benefited. But, in fact, you can't get this kind of support by people who do not normally work well together unless, in fact, this process has been full and fair, as it has been. I thank the ranking member and the chairman for their bipartisan work.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I want to thank all of our colleagues who have participated in this debate; thank Chairman CONYERS for his kind words.

This obviously is very important legislation. And even though my very good friend, Mr. ISSA, just stated that most of the amendments had been made in order by the Rules Committee, that's not the case. Five amendments were made in order, and nine, nine were denied.

Mr. BERMAN. Will the gentleman yield on that issue?

Mr. LINCOLN DIAZ-BALART of Florida. I have very little time. I will yield.

Mr. BERMAN. A number of the nine that were not made in order were incorporated, at the request of the authors of the amendments, into the manager's amendment.

Mr. LINCOLN DIAZ-BALART of Florida. Reclaiming my time. A num-

ber of important amendments have not been made in order. And on legislation this important, we think that it should have been brought forth with an open rule. And so that's why we oppose the rule, and would urge that the majority of the Rules Committee bring forth this legislation again with the opportunity of all Members of the House to offer all amendments based on their work product for consideration by all of our colleagues.

And so with that, I urge the defeat of this unfair rule.

Mr. Speaker, I yield back the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I close by making two comments. Number one, this bill was the product not just of exhaustive hearings by the subcommittee on a bipartisan basis. It's really been the work of a couple of Congresses.

The patent reform system hasn't been changed in any significant way for literally over a half a century, and the changes that have occurred in our economy in electronic communications, in telecommunications, on software, on biotechnology, on every field that has produced wealth in this country have been extraordinary, yet the patent system has been stuck in 1952 mode.

The process that the chairman, Mr. BERMAN, the ranking member, Mr. SMITH, and others have had to go through to try to accommodate the legitimate concerns of the inventor community, of the corporate community, and the complexities of that have been extreme.

This amendment that is being presented to you reflects an open process, not an open amendment with anything and everything on the table, but the product of an open process where everybody who had a concern was actually heard, and the best effort was made to accommodate them directly with specific legislation in the bill, in the manager's or in the amendments that were offered.

So the committee members, on a bipartisan basis, with Mr. BERMAN and Mr. SMITH, have done everything possible to accommodate the concerns of the inventor community, the corporate community, our modern economy and the representatives in this body who are standing up for their constituents.

Secondly, there was some assertion that this is an anti-inventor bill. That is absolutely wrong. This is a bill that is being endorsed by the National Academy of Sciences, by many in the university community, and by others who have, as their whole motivation, the expansion of knowledge and then the implementation of the benefit of that knowledge through a patent system.

So the committee has done an open process which has brought us to this point, and it has proposed changes that are 50 years in the making, that is going to strengthen and expand the rights of our patent community.

Mr. Speaker, I urge a "yes" vote on the rule, House Resolution 636.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1015

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 2669, COLLEGE COST REDUCTION AND ACCESS ACT

Ms. SUTTON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 637 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 637

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2669) to provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2008. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 1 hour.

Ms. SUTTON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. SUTTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Ms. SUTTON. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SUTTON asked and was given permission to revise and extend her remarks.)

Ms. SUTTON. Mr. Speaker, H. Res. 637 provides for consideration of the conference report to accompany H.R. 2669, the College Cost Reduction and Access Act. The rule waives all points of order against the conference report and its consideration and considers the conference report as read.

Mr. Speaker, I am honored to rise today in support of this rule and this

much-needed underlying conference report, the College Cost Reduction Act, which will help give our students a real opportunity to go to college and give them the vital tools necessary to enter our workforce and build a positive future for themselves and our communities. And, Mr. Speaker, at the outset I want to thank Representative GEORGE MILLER, the distinguished chairman of the Education and Labor Committee, along with Speaker NANCY PELOSI, whose commitment to our students, our families and our future in this country has brought us to this day when we are able to take this great step to put college education back within reach of so many hardworking families and students. The College Cost Reduction Act addresses one of the most pressing issues facing millions of families across this Nation: the question of how they will afford to send their children to college.

Educational opportunity is the backbone of our Nation and everything that makes it great. And while access to higher education is more critical than ever for younger generations, the cost is rapidly moving out of reach for many low- and middle-income families. Tuition at 4-year public colleges and universities has risen 41 percent after inflation since 2001. And the typical American student now graduates from college with a \$17,500 debt. This problem has developed into nothing less than a crisis.

Sadly, due to the failure of past Congresses, many students have had their dreams shattered because they could not afford college tuition. Many hardworking parents have had their hearts broken because, despite their valiant efforts, they simply could not afford to pay tuition and meet other vital family needs. This problem has festered for too long, and I have long believed, Mr. Speaker, that those in government must work with the people they are called to serve and not against them.

And that is what this bill does. It is the single largest investment in higher education since the GI Bill. It's good for our families. It's good for our students. It's good for our country.

Financial barriers to higher education not only hurt students themselves by robbing them of the education and training necessary to make a productive and positive impact in our communities; it hurts us all. Investing in our students will not only improve their future; it will help our economy and our retired workers whom they will support. It ensures our national security, continued improvements in health outcomes, and will help the United States maintain its role as a leader in developing new cutting-edge technologies. By providing students with access to higher education, we are bolstering every sector of our economy from medical research to manufacturing because we are creating the next generation of innovators and leaders. Investing in our younger generations will not only help our students and

families who are need; it strengthens America.

The promise of the American Dream is the glue that holds our communities together. It was educational opportunity that provided me, the proud daughter of a working family, to obtain a first-rate education and ultimately find my way to the floor of the House of Representatives to fight for what is right. By denying the opportunities afforded by access to higher education, we deny our families their share of the American Dream.

The College Cost Reduction Act addresses this crisis in a fiscally sound and responsible manner. It is funded by cutting unnecessary subsidies to private lenders and putting our taxpayer dollars to work for the American people. So, Mr. Speaker, this act will not only put college back in reach for our families; it does so by cutting almost \$21 billion in taxpayer subsidies to private lenders and reinvesting over \$20 billion of the savings in our Nation's students and putting an additional \$750 million towards reducing our Nation's deficit.

Specifically, the College Cost Reduction Act will cut the interest rates on subsidized student loans in half. The bill invests heavily in the much-needed, need-based Pell Grant scholarship program, increasing the maximum award by at least \$1,090 over the next 5 years and expanding eligibility for the grants. By passing this bill, we will make a college education possible for hundreds of thousands of additional students over the next 5 years.

Additionally, Mr. Speaker, this legislation also recognizes the value of our public servants by providing them with loan forgiveness for those who choose to serve in the jobs that make our world turn: teachers, firefighters, nurses, law enforcement officers, and librarians.

Further, the College Cost Reduction Act provides upfront tuition assistance to qualified undergraduates who commit to teaching in public schools in high-poverty communities. This bill invests in the strength of our communities and of our country. And the return on our investment as a Nation in our students and people will, without question, provide an enormous return.

Mr. Speaker, the crisis of college cost is pervasive, and it is getting worse. It is long past the time that Congress take action to ensure that a college education is not a privilege reserved only for the wealthy.

I urge all of my colleagues to support our children and our families by voting for the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank my friend, the gentleman from Ohio, for the time; and I yield myself such time as I may consume.

This rule that the majority brings forth today, Mr. Speaker, is a standard

rule for a conference report. But yesterday the minority on the Rules Committee voted against this rule because of the unsatisfactory manner in which the conference report was put together.

In his submitted testimony to the Rules Committee yesterday, Education and Labor Committee Ranking Member BUCK McKeon expressed concern with the process the majority used of the conference committee. The minority was informed at 9:30 p.m. that the conference committee would meet at 11:30 a.m. the following morning. However, the majority did not provide the minority with the text of the conference report at the time the meeting was announced and even kept the text away from Republicans at the meeting itself.

Republican conferees were, in effect, left in the dark. They had no way to know what was in the report. As such, it was impossible for members of the minority to propose amendments to the report and thus play any meaningful part in the conference.

Democrats did not even allow Republicans to see the conference report at the end of the meeting. Instead, Republicans had to wait until later in the evening hours after the conference committee had ended.

Mr. Speaker, our friends on the other side of the aisle campaigned, and they did so repeatedly, on an open, fair, and bipartisan process, including a promise to provide members of conference committees with texts of conference reports. They also said that they will allow members of the conference committee to vote on all amendments.

During consideration of the rules package for this new Congress, the distinguished chairwoman of the Rules Committee said, "Never again will any Member of the Congress have to fight to find out where the conference to which he or she has been appointed is meeting."

Well, in this instance, Members did not have to fight to find the conference committee location, but they certainly did have to fight to get the text of the conference report; and even after fighting, they did not get to see it. By keeping the text of the conference report away from the minority, Democrats were essentially locking out Republican Members from the conference committee, which is exactly what the Democrats said they would not do.

So, Mr. Speaker, because of the manner, the way the majority kept the text of the conference report from Republicans and thus committed, if you will, a process foul, we oppose this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. SUTTON. Mr. Speaker, I yield 6 minutes to the distinguished gentleman, the chairman of the Education and Labor Committee from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the gentlewoman for yielding.

Mr. Speaker, I rise in strong support of this rule to make in order the con-

ference report on H.R. 2669, the College Cost Reduction and Access Act.

In this last election, we campaigned very hard on cutting the cost of college for students and making college more affordable for students and their families who are borrowing money to go to school. And it is clear that we intend to do that with the passage of this legislation today.

In the first 10 hours as part of our 6 for '06 agenda, we cut the interest rates in half on the subsidized student loans so that those low-income families and middle-income families who are struggling to meet the debt burden of sending their children to school will have some relief in that effort. And over the next 4 years in this conference report, we will cut those interest rates from 6.8 percent to 3.4 percent, which is a savings of the average indebted student upon graduation over the life of that loan of some \$4,400. Also for the lowest-income students, the students most in need, we are increasing the Pell Grant up to a level over the next 5 years of \$5,400. This is in keeping with what the President promised but never did, and this is in keeping with our promise that we would again restore the purchasing value of the Pell Grant.

And you can see from this chart, Mr. Speaker, the fact is over the last several years, the Pell Grant has been flat-lined in spite of promises each and every year that it was going to be increased; and this year for the first time Mr. OBEY put money in, in the continuing resolution in the appropriations bill, and then this bill will continue to raise the Pell Grant to \$5,400. This is the largest increase, certainly, in recent history.

It is important that these two populations, middle-income students and families and low-income students and families, have these resources available to them. And the reason it is important is we are now seeing increasing reports now estimated at more than a quarter of a million students who are fully qualified to go to school every year choose not to go to college, to postpone it, or not to go at all because they are worried about whether or not they will be able to manage the debt or afford the cost of college.

□ 1030

And it is our job to make sure that no student in America that is fully qualified to go to college is refused the opportunity to do so because of the cost of college. That has been the policy of this country since the GI Bill, and this is the largest investment since the GI Bill 50 years ago. But it was a policy of the Eisenhower administration, of the Kennedy administration, and essentially every administration on a bipartisan basis since then. But we now see college costs far outstripping the ability of families to pay for a college education, therefore requiring them to borrow money.

So in this legislation we take \$20 billion away from the large lenders and

other lenders of college loans, excessive subsidies that were paid for them, excessive subsidies that were identified in the President's legislation, and we recycle those monies to the benefit of the students and to their families, and we do so within pay-as-you-go, that each and every expenditure in this bill is paid for by the recycling of those excessive subsidies that were going to the lending institution. And in that way, we're able to deliver real money to these families in need in the form of a reduction in interest rates, in the form of an increase in the Pell Grants.

But we also do that so that those people who want to choose the profession of a policeman, a nurse, a fireman, a teacher, a special educator, a prosecutor, a public defender, that those individuals will be allowed to choose those careers and know that they will not have to make another choice because of the crushing debt of their college education. They, under this legislation, will not be required to pay any more than 15 percent of their income in any given year for these student loans. And what does that mean? That means they can start a career in nursing, in health care, in law enforcement, as a first responder, and they know that if they stay in that field for 10 years, that loan will be forgiven. That is a major advantage to those individuals who are seeking to go into those fields.

We also want to keep the promise of earlier actions in this Congress when we passed the COMPETES Act to have highly qualified teachers in math and science go into the classrooms. We're saying to those exemplary performers in college that if you'll go into teaching and you'll go into the most difficult schools, we will give you \$4,000 a year up front while you're in school of tuition relief if you will agree to do that; 16,000 real dollars to those people because they're going to go in and teach in the most difficult schools, and the exemplary performers are going to have the skills and the talents to do that if they so choose to do it.

This legislation is the foundation of the cornerstone of our agenda on innovation for new discovery of this Nation, the next generation of discovery, of innovation, of economic growth and jobs here in America. This is the most valuable investment we can make. Every economist will tell you that the investment in education yields more back to the government, more back to the public sector, more back to civil society than any other investment we make. And that's what we're doing in this legislation. We promised we would do it. We started out in "six for '06," and today, with this conference report, the House and the Senate is keeping its promise.

We've made changes in this legislation that were suggested by Mr. McKEON and by the administration. And I am proud to announce that the President, in spite of his suggested veto messages or his staff-suggested veto messages over the last couple of

months, the President has agreed to sign this legislation.

I encourage all of my colleagues to join in support of this rule and to support the conference report when it comes before us. I hope that we will have a good bipartisan vote as they're now having in the Senate at this very moment.

I thank the gentlewoman for her support in this effort and for yielding the time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my privilege to yield such time as he may consume to the distinguished gentleman from California, the ranking member of the committee, Mr. MCKEON.

Mr. MCKEON. I thank the gentleman for yielding the time.

Mr. Speaker, I rise in opposition to the rule. This rule would provide for consideration of fiscally irresponsible legislation that would create costly new entitlement programs and misdirect billions of aid toward colleges, universities, college graduates and philanthropic organizations rather than the low-income students who need the help the most.

My colleagues who were around in the last Congress may remember that when we passed a real budget reconciliation bill, the Education and Workforce Committee found some \$18 billion plus in savings, two-thirds of which we directed towards deficit reduction and one-third of which we directed towards increased student benefits such as higher loan limits, more grant aid for low-income, high-achieving students, and loan forgiveness for high-demand teachers. Unfortunately, H.R. 2669, the bill that will be before us today, takes us in a drastically different direction.

The rule before us provides for the culmination of months of abuse of the budget reconciliation process as a backdoor way to implement significant changes to programs best addressed through regular order. Not a single committee hearing has been held on this legislation. The potential impact of many of its student loan cuts has never been weighed, and no one has provided adequate reasons regarding why the new entitlement programs and complex student loan auction scheme created under the conference report are necessary or fiscally reasonable.

It eliminates the right of parents to choose their lender and replaces consumer choice with a government-run auction system that is complex, burdensome and untested. And all of this will be put into place in a couple of weeks time. I'm anxious to see how the department puts this into place.

This measure could have been improved by infusing more savings into the Pell Grant Program. Pell is a proven success that has helped millions of young people attend college. In the time during the last 12 years that we

were in charge, we have increased Pell Grant spending double. As the chairman just pointed out, the amount of what he talked about, the individual aid to each individual student, has remained fairly even, but the amount that we have put in has been increased like a billion dollars a year over that period of time because we have a million and a half more students that have now been able to take advantage of that and use the money for their help in getting their chance to achieve the American Dream.

By creating a bundle of new entitlement programs complete with new bureaucracy, rules, and regulations, this conference agreement places billions of dollars in new Federal spending on autopilot with no accountability to taxpayers whatsoever, completely opposite of what the real purpose of reconciliation is for.

The purpose of reconciliation, requiring an easier passage by only requiring 50 votes in the Senate, was set up to reduce mandatory spending and to save money on the budget deficit. And this will actually increase and go just the opposite direction.

And finally, let me be perfectly clear: I have absolutely no confidence in the Department of Education's ability to implement the changes outlined in this conference agreement, particularly with the timeline it sets. It gives me no pleasure to point out this obvious fact, particularly in a Republican administration, but it's true. And sadly, we will be watching this failure play out in the coming months and years.

The rule allows consideration of a conference report that breaks promises to students and taxpayers alike. I urge my colleagues to join me in opposing it.

Ms. SUTTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is the single largest investment in education since the GI Bill, and we know what the GI Bill did for the World War II generation.

Last month, the American people lost 4,000 jobs under this administration, and foreclosures are rising. The middle class needs relief. And this bill will cut interest rates in half of subsidized student loans over the next 4 years. It will allow borrowers to be able to not pay more than 15 percent on their loans.

In addition, the Pell Grant, something that has helped low income, students, and what all of my students ask about every single time I visit college campuses, will be raised to \$490, and over 5 years more than \$1,000. And then we will invest in America's most underserved communities, Hispanic-serving, Historically Black, Native Americans and other institutions in which the bill will invest \$510 million to help students stay in school among other incentives.

This legislation helps our students graduate. It encourages public service. This bill is worth all of us voting for it. The middle class of America needs relief. This is a giant step forward in educating all Americans.

Ms. SUTTON. Mr. Speaker, at this time, I yield 1 minute to the gentleman from New York, a distinguished member of the Education and Labor Committee, Mr. BISHOP.

Mr. BISHOP of New York. I thank the gentlewoman for yielding.

Mr. Speaker, it is difficult for me to summarize in 1 minute the attributes of this first-rate conference report, but let me just say this: For a period of time before I came to the Congress, I was the senior administrator in a college. I had a very simple rule when I was faced with a decision. That rule was: Is the decision I'm about to make in the best interest of students, will it help students? And by that measure, the answer to this question is an emphatic "yes."

We should be supporting the rule. We should be supporting the underlying legislation. This legislation helps students realize their dreams, and that's what this Congress should be about. This is about student aspiration, and this is about the Congress providing the resources to see to it that students can get their slice of the American Dream. And by increasing the Pell Grant maximum, by reducing the rate that students will have to pay when they borrow, and by streamlining the needs analysis system so that students have a more realistic measure of their ability to pay, we will increase access, we will enhance affordability.

We should support this rule and support this conference report.

Ms. SUTTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois, a distinguished member of the Education and Labor Committee, Mr. DAVIS.

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of the rule for H.R. 2669, the College Cost Reduction and Access conference bill.

Mr. Speaker, first of all, I want to commend the leadership in both the House and the Senate for this outstanding legislation. This bill recognizes the fact that without investment there is no return. And it is, indeed, a strong investment in the future of America.

There are many components of the bill that are outstanding: loan forgiveness for public service, loan forgiveness for individuals who teach in high-need institutions, schools. But especially, Mr. Speaker, I am pleased to note that this legislation focuses attention on the needs of primarily minority-serving institutions like Hispanic-serving institutions, Historically Black Colleges and Universities, PBIs, predominantly black institutions, and of course Native American and Pacific Island institutions.

I want to commend Mr. HINOJOSA, who is the chairman of our subcommittee, and urge that this legislation be passed.

First of all, Mr. Speaker, I want to commend the leadership in both the House and the Senate for this outstanding legislation. This bill recognizes the fact that without investment, there is no return. And it is indeed a strong investment in the future of America. It expands access and makes higher education more accessible for all. It increases the Pell grant maximum to \$4,800 next year and to \$5,400 by 2012. It cuts interest rates, provides upfront tuition for students who agree to teach in high-need public schools, provides loan forgiveness for some public employees and, Mr. Speaker, I am especially pleased that it recognizes the unique needs of primarily minority serving institutions like Hispanic-serving Historically Black Colleges and Universities, Native American, Pacific American, Asian American and Predominately Black Institutions in which I took a particular interest. Importantly, it includes \$510 million for these minority-serving institutions and \$30 million for PBIs specifically.

Again, Mr. Speaker, I want to commend the leadership in both the House for this great work and especially subcommittee Chairman HINOJOSA for his strong positions on the needs of minority students and primarily minority serving institutions.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, we reiterate that the process by which this conference report was composed was not fair. And it, in effect, violated the promises made by the other side of the aisle very recently, very recently made and reiterated. The process was profoundly unfair. I stressed that in my previous remarks, and I reiterate it now.

In addition, we've heard from the distinguished ranking member with regard to grave concerns by many of those who have been working on this issue, such as Mr. McKEON, for many years.

So for those reasons, Mr. Speaker, we oppose this rule and would urge a "no" vote on the rule.

Mr. Speaker, I yield back the balance of my time.

Ms. SUTTON. Mr. Speaker, the Congress has an obligation to address the needs of the American people, and to work with them to address the pressing problems that they face.

Today, we take a great step towards regaining the faith of the American people as we pass the College Cost Reduction Act to provide hundreds of thousands of American families with the opportunity to create a better life for their children. I am proud to be a part of that effort.

The College Cost Reduction Act is a fiscally responsible bill which makes the single largest investment in college aid since the GI Bill, which, as we all know, provided our Greatest Generation with the opportunity to create the Nation we know today.

This legislation invests over \$20 billion in student aid, and does so with no additional cost to the taxpayers.

Before I close, Mr. Speaker, I want to again applaud the extraordinary lead-

ership of Chairman GEORGE MILLER in making college affordability a top priority.

□ 1045

Under his guidance, all of the members of the Education and Labor Committee have crafted a good bill that works for our families and our country.

Mr. Speaker, I urge all of my colleagues to vote for this investment in our children, in our economy and in our future, to keep faith with the American people, and to send a clear message that the American Dream is not a relic of the past, but a cornerstone of our future.

I urge a "yes" vote on the previous question and on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today, in the following order:

Adoption of H. Res. 636, by the yeas and nays;

Adoption of H. Res. 637, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

PROVIDING FOR CONSIDERATION OF H. Res. 636, PATENT REFORM ACT OF 2007

The SPEAKER pro tempore. The unfinished business is the vote on adoption of House Resolution 636, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 222, nays 181, not voting 29, as follows:

[Roll No. 860]

YEAS—222

Abercrombie	Baldwin	Bishop (NY)
Ackerman	Barrow	Blumenauer
Allen	Bean	Boren
Altmiere	Becerra	Boswell
Andrews	Berkley	Boucher
Arcuri	Berman	Boyda (KS)
Baca	Berry	Brady (PA)
Baird	Bishop (GA)	Braley (IA)

Brown, Corrine	Honda	Perlmutter
Butterfield	Hoyer	Peterson (MN)
Cannon	Inslee	Pomeroy
Capps	Israel	Price (NC)
Capuano	Issa	Rahall
Cardoza	Jackson (IL)	Rangel
Carnahan	Jackson-Lee	Reyes
Carney	(TX)	Richardson
Castor	Jefferson	Rodriguez
Chandler	Johnson (GA)	Ross
Clarke	Johnson, E. B.	Rothman
Clay	Kagen	Roybal-Allard
Cleaver	Kanjorski	Ruppersberger
Clyburn	Kennedy	Rush
Coble	Kildee	Ryan (OH)
Cohen	Kilpatrick	Salazar
Conyers	Kind	Sánchez, Linda
Cooper	Klein (FL)	T.
Costa	Kucinich	Sarbanes
Courtney	Langevin	Schakowsky
Cramer	Lantos	Schiff
Crowley	Larsen (WA)	Schwartz
Cuellar	Larson (CT)	Scott (GA)
Cummings	Lee	Scott (VA)
Davis (AL)	Levin	Serrano
Davis (CA)	Lewis (GA)	Shea-Porter
Davis (IL)	Lipinski	Sherman
Davis, Lincoln	Loebach	Shuler
Davis, Tom	Lofgren, Zoe	Simpson
DeFazio	Lowey	Sires
DeGette	Lynch	Skelton
Delahunt	Mahoney (FL)	Slaughter
DeLauro	Maloney (NY)	Smith (TX)
Dicks	Markey	Smith (WA)
Dingell	Marshall	Snyder
Doggett	Matheson	Solis
Donnelly	Matsui	Space
Doyle	McCarthy (NY)	Spratt
Edwards	McCollum (MN)	Stark
Ellison	McDermott	Stupak
Emanuel	McGovern	Sutton
Engel	McIntyre	Tanner
Eshoo	McNerney	Tauscher
Etheridge	McNulty	Taylor
Farr	Meek (FL)	Thompson (CA)
Fattah	Meeks (NY)	Thompson (MS)
Filner	Melancon	Tierney
Frank (MA)	Miller (NC)	Towns
Gallegly	Miller, George	Udall (CO)
Giffords	Mitchell	Udall (NM)
Gillibrand	Mollohan	Van Hollen
Gonzalez	Moore (KS)	Velázquez
Gordon	Moore (WI)	Visclosky
Green, Al	Moran (VA)	Walz (MN)
Green, Gene	Murphy (CT)	Wasserman
Grijalva	Murphy, Patrick	Schultz
Gutierrez	Murtha	Waters
Hall (NY)	Nadler	Watt
Hare	Napolitano	Waxman
Harman	Neal (MA)	Weiner
Hastings (FL)	Oberstar	Welch (VT)
Herseth Sandlin	Obey	Wexler
Higgins	Olver	Wilson (OH)
Hinojosa	Ortiz	Woolsey
Hirono	Pascarell	Wu
Hodes	Pastor	Wynn
Holt	Payne	Yarmuth

NAYS—181

Aderholt	Campbell (CA)	Fossella
Akin	Cantor	Fox
Alexander	Capito	Franks (AZ)
Bachmann	Castle	Frelinghuysen
Bachus	Chabot	Garrett (NJ)
Baker	Cole (OK)	Gerlach
Barrett (SC)	Conaway	Gingrey
Bartlett (MD)	Costello	Gohmert
Barton (TX)	Crenshaw	Goode
Biggert	Culberson	Goodlatte
Bilbray	Davis (KY)	Granger
Bilirakis	Davis, David	Graves
Blackburn	Deal (GA)	Hall (TX)
Blunt	Dent	Hastings (WA)
Boehner	Diaz-Balart, L.	Hayes
Bonner	Diaz-Balart, M.	Heller
Bono	Doolittle	Hensarling
Boozman	Drake	Herger
Boustany	Dreier	Hill
Brady (TX)	Duncan	Hinchee
Broun (GA)	Ehlers	Hobson
Brown (SC)	Emerson	Hoekstra
Brown-Waite,	English (PA)	Hulshof
Ginny	Everett	Hunter
Buchanan	Fallin	Inglis (SC)
Burgess	Feeney	Johnson (IL)
Burton (IN)	Ferguson	Jones (NC)
Buyer	Flake	Jordan
Calvert	Forbes	Kaptur
Camp (MI)	Fortenberry	Keller

King (IA) Miller (FL) Sali
 King (NY) Miller (MI) Saxton
 Kingston Miller, Gary Schmidt
 Kirk Moran (KS) Sensenbrenner
 Kline (MN) Murphy, Tim Sessions
 Knollenberg Musgrave Sestak
 Kuhl (NY) Neugebauer Shadegg
 LaHood Nunes Sha's
 Lamborn Pence Shuster
 Lampson Peterson (PA) Smith (NE)
 Latham Petri Smith (NJ)
 LaTourette Pitts Souder
 Lewis (CA) Platts Stearns
 Lewis (KY) Poe Sullivan
 Linder Porter Terry
 LoBiondo Price (GA) Thornberry
 Lucas Pryce (OH) Tiahrt
 Lungren, Daniel Putnam Tiberi
 E. Radanovich Turner
 Mack Ramstad Upton
 Manzullo Regula Walberg
 Marchant Rehberg Walden (OR)
 McCarthy (CA) Renzi Wamp
 McCaul (TX) Pitts Weldon (FL)
 McCotter Rogers (AL) Westmoreland
 McCrery Rogers (KY) Whitfield
 McHenry Rogers (MI) Wicker
 McHugh Rohrabacher Wilson (NM)
 McKeon Ros-Lehtinen Wilson (SC)
 Mica Roskam Wolf
 Michaud Ryan (WI) Young (FL)

NOT VOTING—29

Bishop (UT) Hooley Pickering
 Boyd (FL) Jindal Reichert
 Carson Johnson, Sam Royce
 Carter Jones (OH) Sanchez, Loretta
 Cubin McMorris Shimkus
 Davis, Jo Ann Rodgers Tancred
 Ellsworth Myrick Walsh (NY)
 Gilchrest Pallone Watson
 Hastert Paul Weller
 Holden Pearce Young (AK)

□ 1111

Messrs. DEAL of Georgia, BAKER, MCCARTHY of California, CALVERT and CAMPBELL of California changed their vote from “yea” to “nay.”

Messrs. KILDEE, GALLEGLY and TAYLOR changed their vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 2669, COLLEGE COST REDUCTION AND ACCESS ACT

The SPEAKER pro tempore. The unfinished business is the vote on adoption of House Resolution 637, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 220, nays 185, not voting 27, as follows:

[Roll No. 861]

YEAS—220

Abercrombie Berkley Brown, Corrine
 Ackerman Berman Butterfield
 Allen Berry Capps
 Altmire Bishop (GA) Capuano
 Andrews Bishop (NY) Cardoza
 Arcuri Blumenauer Carnahan
 Baca Boren Carney
 Baird Boswell Castor
 Baldwin Boucher Chandler
 Barrow Boyda (KS) Clarke
 Bean Brady (PA) Clay
 Becerra Braley (IA) Cleaver

Clyburn Cohen
 Cohen Conyers
 Costello Cooper
 Courtney Costello
 Cramer Crowley
 Cuellar Cunniff
 Cummings Davis (AL)
 Davis (CA) Davis (CA)
 Davis (IL) Davis (IL)
 DeFazio DeGette
 DeLoach Delahunt
 DeLauro Dicks
 Dingell Doggett
 Donnelly Doyle
 Edwards Ellison
 Emanuel Engel
 Eshoo Etheridge
 Farr Fattah
 Filner Frank (MA)
 Giffords Giffords
 Gillibrand Gillibrand
 Gonzalez Gonzalez
 Gordon Green, Al
 Green, Gene Grijalva
 Gutierrez Gutierrez
 Hall (NY) Hall (NY)
 Hare Hare
 Harman Harman
 Hastings (FL) Hastings (FL)
 Herse Sandlin Herse Sandlin
 Higgins Hill
 Hinchey Hinchey
 Hinojosa Hinojosa
 Hirono Hirono
 Hodes Hodes
 Holt Holt
 Honda Honda
 Hoyer Hoyer
 Inslee Inslee
 Israel Israel
 Jackson (IL) Jackson (IL)
 Jackson-Lee Jackson-Lee
 (TX) (TX)
 Jefferson Jefferson
 Johnson (GA) Johnson (GA)
 Johnson, E. B. Johnson, E. B.

NAYS—185

Adersholt Capito
 Akin Castle
 Alexander Chabot
 Bachmann Coble
 Bachus Cole (OK)
 Baker Conaway
 Barrett (SC) Crenshaw
 Bartlett (MD) Culberson
 Barton (TX) Davis (KY)
 Biggart Davis, David
 Bilbray Davis, Tom
 Bilirakis Deal (GA)
 Bishop (UT) Dent
 Blackburn Diaz-Balart, L.
 Blunt Diaz-Balart, M.
 Boehner Doolittle
 Bonner Drake
 Bono Dreier
 Boozman Duncan
 Boustany Ehlers
 Brady (TX) Emerson
 Brown (GA) English (PA)
 Brown (SC) Everett
 Brown-Waite, Ginny Fallon
 Buchanan Feeney
 Burgess Ferguson
 Burton (IN) Flake
 Buyer Forbes
 Calvert Fortenberry
 Camp (MI) Fossella
 Campbell (CA) Fox
 Cannon Franks (AZ)
 Cantor Frelinghuysen
 Gallegly Gallegly

Lamborn Neugebauer
 Latham Nunes
 LaTourette Pence
 Lewis (CA) Peterson (PA)
 Lewis (KY) Petri
 Linder Pitts
 LoBiondo Platts
 Lucas Poe
 Lungren, Daniel Porter
 E. Price (GA)
 Mack Pryce (OH)
 Manzullo Putnam
 Marchant Radanovich
 McCarthy (CA) Ramstad
 McCaul (TX) Regula
 McCotter Rehberg
 McCrery Renzi
 McHenry Reynolds
 McHugh Rogers (AL)
 McKeon Rogers (KY)
 McMorris Rogers (MI)
 Rodgers Rohrabacher
 Mica Ros-Lehtinen
 Miller (FL) Roskam
 Miller (MI) Ryan (WI)
 Miller, Gary Sali
 Moran (KS) Saxton
 Murphy, Tim Schmidt
 Musgrave Sensenbrenner

NOT VOTING—27

Boyd (FL) Hooley Reichert
 Carson Jindal Royce
 Carter Johnson, Sam Sanchez, Loretta
 Cubin Jones (OH) Shimkus
 Davis, Jo Ann Myrick Tancred
 Davis, Lincoln Pallone Walsh (NY)
 Ellsworth Paul Watson
 Hastert Pearce Weller
 Holden Pickering Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1120

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2669) “An Act to provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2008.”.

CONFERENCE REPORT ON H.R. 2669, COLLEGE COST REDUCTION AND ACCESS ACT

Mr. GEORGE MILLER of California. Madam Speaker, pursuant to House Resolution 637, I call up the conference report on the bill (H.R. 2669) to provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2008.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Ms. SOLIS). Pursuant to House Resolution 637, the conference report is considered read.

(For conference report and statement, see proceedings of the House of September 6, 2007 at page H10168.)

The SPEAKER pro tempore. The gentleman from California (Mr. GEORGE

MILLER) and the gentleman from California (Mr. McKEON) will each control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of the conference report on H.R. 2669, the College Cost Reduction and Access Act, legislation that provides for cutting the interest rates on subsidized student loans from 6.8 to 3.4 percent over the next 5 years; that calls for the biggest increase in the Pell Grant in the history of the program, \$1,000 new dollars over the next 5 years; that provides for an income-contingent payment plan where people will not have to pay more than 15 percent of their income on student loans; and if they go to public service, that loan can be forgiven for 10 years; and provides major support for the minority-serving institutions of this country. This is all done within the PAYGO rules because of the \$20 billion in excessive subsidies that were being paid to lenders in this field, and so we comply with the Budget Act.

I rise in support of the conference report to H.R. 2669, the College Cost Reduction and Access Act.

Yesterday, we held a rally to highlight the benefits of this legislation for our nation's students and families. It is clear from listening to the students at the rally that one of the greatest challenges facing them today is the rising cost of college and high student loan debt.

With students returning to campuses, I can think of no better back to school gift than passing a bill that represents the greatest effort to help students and families pay for college since the GI Bill was passed more than fifty years ago. This is no ordinary gift. This is real money we are providing for students and families which translates into real relief.

As we have mentioned since the beginning of this process, these historic investments in education are being done in a fiscally responsible way. This conference report will fully comply with new House rules that require all federal spending to meet tough pay-as-you-go budget rules.

Additionally, the conference report will set aside \$750 million in budget deficit reduction, demonstrating that with smart policy, we can be fiscally responsible and be responsive to the concerns of the American people. This conference agreement significantly increases the Pell Grant scholarship over the next five years to a maximum of \$5,400. This investment—almost double the investment in the House bill, and the largest increase in the scholarship's history—will greatly restore the purchasing power of the scholarship for students with the most financial need, meet the President's 2008 budget request, and also address concerns raised by Mr. McKEON during House consideration of this measure.

This agreement also: Cuts interest rates in half for need-based student loans from 6.8% to 3.4% over 4 years. When fully phased in it will save the typical student \$4,400 over the life of the loan. This measure was overwhelmingly supported by this body in January; makes new investments in Historically Black

Colleges and Universities, Hispanic Serving Institutions, and other minority serving schools—to ensure that students will not only enter college, but remain and graduate; makes debt more manageable for students through an Income Based Repayment program; provides loan forgiveness and loan repayment options for those providing a public service; and ensures that we place a highly qualified teacher in every classroom through the creation of TEACH grants.

As mentioned before, this bill is fully paid for with cuts to lender subsidies.

It builds on proposals we passed in H.R. 5 and on proposals outlined by the President in his 2008 budget.

We believe the reasonable offsets in the final package meet our goal to ensure the continued participation by the lenders in the FFEL program as anticipated by the Congressional Budget Office. While a challenge, we believe this final package balances our commitment to minimizing the burden placed on lenders with our commitment to helping students.

As you can see, this conference agreement is a remarkable step forward in our efforts to help every qualified student go to college. This is a foundation we will continue to build on. As I mentioned at the conference meeting, I am committed to continuing these efforts when the House considers the reauthorization of the Higher Education Act this year.

Given that we have addressed many of the concerns raised by the Administration, I received confirmation yesterday from Secretary Spellings that the President is expected to sign the final bill.

I hope that my colleagues on the other side of the aisle will follow the lead of the White House and the Senate—who overwhelmingly passed this legislation not too long ago—and vote in favor of this carefully crafted compromise.

Rather than stand between our nation's students and their ability to access much needed financial relief, I urge all members to vote in favor of the conference report on the College Cost Reduction and Access Act.

Today this body is voting to do what is right for students, our economy, and our nation's future. Together we are putting the American Dream back within reach of every family in this country.

Madam Speaker, I now yield such time as he may consume to the gentleman from South Carolina (Mr. SPRATT), the chairman of the Budget Committee.

Mr. SPRATT. Madam Speaker, I rise in strong support of the conference agreement on H.R. 2669. I am proud to say that this is a reconciliation bill which originated with the budget resolution for fiscal year 2008.

This is also a happy occasion where good policy for education is also good for the budget's bottom line. This bill will reduce the budget deficit. That's right, it will reduce the budget deficit over 5 years by \$750 million at the same time that it invests in human capital and makes colleges more affordable for millions of students.

I am proud to see this outcome, proud to have gotten the ball rolling in the Budget Committee to start the process, and I commend the chairman

who has taken this bill from January to September, passing it step by step through the House, through the Senate, conferencing it, in no small part due to the reconciliation status it enjoyed in the Senate, and I hope that the whole House will note the support that it has gotten. This is a solid, substantive bill for college students. I hope the conference report will pass handily in both Chambers and I hope the President will take note and sign this bill into law.

Madam Speaker, I rise in strong support of the conference agreement on H.R. 2669, the College Cost Reduction and Access Act. I am proud to say that this is a reconciliation bill, which originated with the budget resolution for fiscal 2008. This is also a happy occasion where good policy is good for the budget's bottom line. This bill will reduce the budget deficit at the same time that it invests in human capital and helps make college more affordable for millions of students.

The conference agreement complies with our budget resolution for fiscal year 2008, which instructed the House Committee on Education and Labor to cut spending under its jurisdiction by \$750 million by 2012. By passing this measure, the House maintains the tough pay-as-you-go rule and the rule barring reconciliation bills that increase the deficit, a rule the House instituted for the 110th Congress in January. These budget rules require Congress to make tough choices to meet priorities while restoring the budget to balance, and the House has insisted on enforcing these rules in every case.

This reconciliation bill is a stark contrast from those enacted by Republican-controlled Congresses. Every Republican reconciliation directive since 1994 has resulted in reconciliation packages consisting primarily of huge tax cuts that increased the deficit. In contrast, this reconciliation bill is better than budget-neutral; over fiscal years 2007 through 2012, it results in budgetary savings of \$752 million.

In addition to making a net reduction in the deficit, this bill makes improvements in student loans and grants, paid for by cuts in subsidies to student loan lenders. It provides more than \$20 billion in new resources to make college more affordable by lowering the cost of student loans or by increasing the grant available. For example, by 2012 the bill increases the maximum Pell grant to \$5,400, a 33 percent increase over what the maximum grant was when the 110th Congress was sworn in. The bill also cuts by 50 percent the interest rate that students pay on subsidized student loans.

To offset the cost of these student benefits, the bill reduces subsidies that the government pays to banks. These reductions are similar to those in H.R. 5, which passed the House in January by a bipartisan vote of 356–71, and to the subsidy cuts in the President's 2008 budget proposal.

I commend the committee, and its able chairman, Mr. MILLER, for moving this bill step by step from January to September, passing it in the House and conferencing it. I hope that this bill will pass handily in both bodies, and I hope that the President will take note, and sign this bill into law immediately.

Mr. GEORGE MILLER of California. Madam Speaker, I reserve the balance of my time.

Mr. McKEON. Madam Speaker, I yield myself such time as I may consume, and I rise in opposition to this conference report which is the product of both a flawed policy and a flawed process.

The conference report was made available to Republicans for the first time less than 24 hours before it reached the Rules Committee. Unfortunately, that was just the latest in a series of disappointments we have endured throughout the process. But perhaps my greatest disappointment is the sinking reality that this conference agreement could have done more to help low-income students gain access to college. Instead, I fear we have squandered a tremendous opportunity.

College Cost Reduction, the name of this act, really is not a part of this bill. It is a huge spending bill. There is one element of this conference report worthy of praise, and I would like to begin there.

This conference agreement will invest approximately \$11 billion in Pell Grants, which I believe are the single most effective tool to help open the doors of higher education to low-income students.

The gentleman from Florida (Mr. KELLER), the senior Republican of the Subcommittee on Higher Education, Lifelong Learning and Competitiveness, deserves great credit for the Pell Grant increases that have been provided over the last several years. Mr. KELLER is a champion for the Pell Grant program, having founded the Congressional Pell Grant Caucus to advocate for this critical program. The recipient of a Pell Grant himself, Mr. KELLER has shined a spotlight on the importance of targeting the Federal investment in higher education to serve low-income students.

If I had been in the room when this agreement was reached, I would have preferred to invest even more in Pell Grants. In fact, I advocated a straightforward approach to reform that would have saved billions of dollars by making the student loan program more efficient and plowed those resources directly into Pell Grants. It is an approach that I continue to believe would have received strong bipartisan support in both the House and the Senate. Instead, the Democrats opted to jeopardize the stability of the Federal Financial Education Loan program by imposing excessive cuts, created an unnecessary complex and cumbersome auction scheme that will deny parents a choice of loan providers, imposed an impossible timeline for implementation that sets students up for confusion and program participants up for failure, and created massive new entitlement programs.

I harbor serious concerns about this conference report when it is simply taken at face value. Unfortunately, I fear that when we consider the long-term ramifications, these concerns grow much more serious.

First, the conference report creates new entitlement programs, but only

provides short-term funding. Every single person in this room knows that once created, an entitlement will not die. That means in 5 years we will be forced to make additional cuts to fund these new entitlements.

□ 1130

Second, the conference report includes the misguided plan to temporarily reduce interest rates. What once was a campaign promise has become a trap that will ensnare either students or taxpayers, and possibly both. The plan would temporarily phase down interest rates over the next 4 years, and just as soon as the rate gets down to half the level it is today, as Democrats promised during the campaign, it will jump back to its current level. The choice then becomes whether we break the promise to students and allow the rates to rise or break the promise to taxpayers that this legislation is paid for and stick them with an additional 20 to \$30 billion to pay for those cuts over the next 5 years.

The third consequence of this proposal, which I believe the majority has not considered, is the undue burden that will be caused by its hasty implementation. The conference report presumes that complex technological and service changes will be implemented in a matter of weeks. It seems almost inevitable that this unrealistic timeline will create chaos within these programs for students, program participants and the Department of Education.

And, finally, let me be perfectly clear. I have absolutely no confidence in the Department of Education's ability to implement the changes outlined in this conference report, particularly with the timeline it sets. It gives me no pleasure to point out this obvious fact, particularly in a Republican administration, but it's true, and sadly, we will all be watching this failure play out in the weeks, months and years ahead.

There's another issue that bears mentioning, and it's what this conference report unfortunately does not do. Despite its lofty name, this legislation does nothing at all to reduce the cost of college. It didn't have to be this way. In fact, the bill that passed the House contained provisions that I championed to make college cost increases more transparent to students and parents. These commonsense reforms were stripped away, leaving consumers with nothing.

The majority will tell you these college cost provisions were removed because they did not meet the stringent rules applied to a budget reconciliation package. That may well be true. If so, I consider it further proof that by abusing the reconciliation process we missed key opportunities to help students.

While this conference agreement is unmistakably a product of the Democratic Congress, I cannot help but express my disappointment in the admin-

istration for their role in this process. The fiscal year 2008 budget request proposed excessive cuts to the student loan programs, cuts that I believe may ultimately destabilize the largest source of Federal financial assistance. And when the bill left this House, the administration promised to veto the bill if some of these egregious measures were left in the bill. They are still there, and I now understand the President will sign the bill.

This conference agreement makes a significant investment in the Pell Grant Program. For that, I'm appreciative. I only wish it had done more. I wish that we could have seized upon the opportunity, worked together in a bipartisan fashion, and produced a conference report that lived up to its name.

Madam Speaker, I am deeply disappointed in the conference report we are considering and the process that was used to get here, and so I must oppose final passage.

Madam Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 1¼ minutes to the gentleman from Illinois (Mr. EMANUEL) who has worked very hard on this legislation. Thank you for that.

Mr. EMANUEL. Madam Speaker, I'd like to thank my colleague from California for his leadership on this legislation. We will pass this legislation, and now the President's agreed to sign the most aggressive college student aid package since the GI bill 60 years ago. In an era where you earn what you learn, this bill will ensure that more Americans have access to a college education.

Today, the average student graduating from college graduates with \$19,000 of debt. So, on graduation day, you get a diploma on one side and you get a \$19,000 bill on the other side. This legislation will ensure that more and more Americans have the access to a college education. Not one of us would be here if it wasn't for the fact that we had had access to a college education and the ability to make something of ourselves.

This will ensure that middle-class families and their children do not suffer under the burden of the cost of rising costs of a college education.

I remember when I was running for office and I met a family in Chicago, Illinois. He was a police officer for 11 years. His wife was a teacher in a parochial school. They had two kids in high school, and they looked at me on their doorstep, and they had to make a decision: a third job among them, a second mortgage on their home, or burdening their children with \$19,000 of additional debt.

This legislation ensures they are both good parents and their children have access to a great college education.

And I again want to compliment the leadership from my colleague Congressman MILLER for producing this legislation in such a speedy time.

Mr. McKEON. Madam Speaker, I am happy to yield 3½ minutes to the gentleman from Indiana, a member of the committee, Mr. SOUDER.

Mr. SOUDER. Madam Speaker, I thank the distinguished ranking member, and I stand up in opposition to this bill, not because I don't want to control tuition costs. This bill doesn't control tuition costs. This is a fundamental disagreement about the direction of our government.

Do we believe in markets or do we believe in the Federal Government? This is a remnant of the battle where we moved from direct lending over to free-market lending, that this bill, in fact, does nothing to control costs. Inevitably it will lead to the government taking over in direct lending and government having to try to fix costs of lending and then to fix the tuition costs, because there's nothing in here that balances tuition costs.

Previously, students and parents, if they had to factor in rising tuition costs and they couldn't get affordable loans, the pressure of the market would come on universities and colleges and alternative forums, and the market would respond, but this bill releases the market pressure.

Furthermore, in this bill there are other things that, instead of putting the money for those students who are highest risk and have the least income in Pell Grants, we've expanded into the middle class where the only hopeful pressure for tuition costs would come from. Students who could achieve academic scholarship in most universities can get into the highest universities if they can achieve the scholarship level. Let's look at this debate where it really is. It's in the middle class. It's about does the private sector manage loans better than the public sector and how does that triangle work with the universities.

For example, under private sector lending, bad debts have gone down. Why? Because you get financial counseling. There's a private sector incentive to make a profit that results in counseling of saying, will your degree match up your ability to repay or we won't give you the loan. They also put the pressure on the institutions, even with a small portion of the student loan being actual private sector.

But there's a provision in this bill, and I don't use this in a pejorative term, I use it in actual dictionary term, is the most socialist provision that I have seen in a bill, and it's the income-based repayment plan. It says that you only take 15 percent of your discretionary income to repay the interest, which then gets capitalized into the capital. Let me use my own personal example.

My father, we came from a nice middle-class family but middle class at best, in retailing. My dad told me he would either pay my way through grad school or undergrad. If I wanted to go to grad school, the college of my choice, he had saved a certain amount

of money. I would have to live at home and go undergraduate. I got a great education at Indiana Purdue University in Fort Wayne, and then went to the University of Notre Dame. My father would have had no incentive under this bill to do so because in furniture retailing, followed by being a congressional staffer, I did not make enough money that I could have repaid my loan to Notre Dame or my undergraduate loan, and I would have had that loan excused at 25 years. I would have never paid, probably based on my salary, based on inflation adjustment, not a dime on the principal. There would have been no market management on my dad to save the money or on me.

This bill, by undermining both the lending premise of the private sector and the personal responsibility of parents and students to balance this, is a purist government takeover of a project that will not reduce the cost of student loans but will expand the power of government and the inefficiencies of government and ultimately damage students of America.

No matter how good and tempting it sounds, no matter what the campaign commercials sound like, it is a terrible, terrible bill.

Mr. GEORGE MILLER of California. Madam Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HINOJOSA), who is the subcommittee Chair of the Higher Education Subcommittee and who has just been so instrumental in the success of this legislation.

(Mr. HINOJOSA asked and was given permission to revise and extend his remarks.)

Mr. HINOJOSA. Madam Speaker, I strongly urge all of my colleagues on both sides of the aisle to support this conference report.

Today, the payoff for investing in education is even greater and the stakes are higher. The College Cost Reduction and Access Act will open the doors of higher ed to a new generation of students. This is our moment to take a stand for our future competitiveness and prosperity. Investment in Pell Grants is increased significantly.

It supports college success for first generation, low-income students by dedicating additional resources to Upward Bound and College Access Challenge grants. It invests in our public servants and in our teachers.

I am particularly proud of our work to strengthen the institutions that are the gateway of access to higher ed for minority students.

Through this legislation, we will increase funding over several years by \$510 million in HSIs, HBCUs, tribal colleges, Native Hawaiian institutions and newly designated predominantly black institutions, as well as institutions serving Asian Americans.

I commend Chairman MILLER, Senator KENNEDY and all my House colleagues on both sides of the aisle on the Education and Labor Committee

for their hard work and leadership in crafting the College Cost Reduction and Access Act. It has been my privilege to work on this legislation.

This conference report has already been passed in the Senate, and I'm very happy about that. I urge my colleagues to support this conference report.

Mr. Speaker, I strongly urge all of my colleagues on both sides of the aisle to support this conference report. H.R. 2669, the College Cost Reduction and Access Act, represents the largest investment in college access since the GI bill. Over the next 5 years, we will increase our federal support for higher education by \$20 billion. This is a once in a generation opportunity.

I can still remember when, college was not even in the realm of possibility for people who came from communities like mine. That was until the GI bill opened our college campuses to our returning veterans—rich, poor, black, Hispanic—they all had a shot at the American Dream of a college education. Our nation became smarter, stronger and richer as a result of this egalitarian investment in education.

Today, the pay off for investing in education is even greater and the stakes are higher. The College Cost Reduction and Access Act will open the doors of higher education to a new generation of students. This is our moment to take a stand for our future competitiveness and prosperity. Investment in "Pell Grants" is increased significantly! The College Cost Reduction and Access Act is a strategic package of investments to expand higher education opportunities. It guarantees a minimum increase of \$1090 in the maximum Pell grant over the next 5 years—reversing the last five years of stagnant funding.

It supports college success for first-generation, low-income students by dedicating additional resources to Upward Bound and College Access Challenge grants. It invests in our public servants and in our teachers.

I am particularly proud of our work to strengthen the institutions that are the gateways of access to higher education for minority students. Through this legislation, we will increase funding over several years by \$510 million dollars in HSIs, HBCUs, tribal colleges; Native Hawaiian Institutions, and newly designated predominantly Black Institutions; and Institutions serving Asian Americans.

Some on the other side will say that we are investing in institutions at the expense of students. This argument reflects a fundamental lack of understanding of the communities that will fuel the growth in our workforce and the need to develop their capacity to provide higher education opportunities.

The 2007 Condition of Education reports that 42 percent of our public school children are racial or ethnic minorities—one in five is Hispanic. HSIs, HBCUs, and other minority-serving institutions are only going to grow in their importance for ensuring that our nation continues to have enough college graduates to fill the jobs in our knowledge-based economy. They are a worthy investment.

I commend Chairman MILLER, Senator KENNEDY and all of my House colleagues on the Education and Labor Committee for their hard work and leadership in crafting the "College Cost Reduction and Access Act". It has been my privilege to work on this legislation. This conference report has already passed in the Senate!

I urge my colleagues to support this conference report.

Mr. McKEON. Madam Speaker, I am happy to yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, I thank my colleague for yielding.

I come to the floor today opposed to this bill. This budget reconciliation conference report before us today creates five new entitlement programs and abuses the protection of the reconciliation procedures.

A number of programs that were a part of discretionary spending, that depended as to whether the money was available in the budget or not and whether we had the money available to fund those programs, determined exactly how much money would be spent on those programs, but now they will be moved into entitlement status. More money, rather than going through a process where we review the spending every year, is on automatic pilot. And sure, the bill says that these programs will sunset, but those of us that have been here for a while know that entitlement programs never sunset. They just grow larger and larger and larger. And the Federal Government and this Congress loses control over that spending.

The discussion about the student loan interest, cutting it in half, it goes down and scales down over a period of 4 or 5 years and in the 5th year it comes back to its full amount. Why? Because we can't afford it or the other side hasn't been able to find the 20 to \$30 billion that's estimated would actually be necessary to continue this program in the past. Will they find it in the future? Probably. It will be called deficit spending.

This bill is a massive attack on the private sector. There are significant increases in new Federal mandatory spending. It grows government one more time. It puts the Federal Government in control of more parts of the education sector, the education process, squeezing out the private sector, squeezing out parents and inserting big brother and big government in the process.

But under this administration, when it comes to education, why am I not surprised that we're talking about more government and less parental involvement?

Mr. GEORGE MILLER of California. Madam Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Madam Speaker, I thank and congratulate my chairman and friend for this excellent piece of work.

When middle-class people, when police officers and real estate agents and computer programmers sit down to fill out the forms at the kitchen table and apply for financial aid, they end the process very frustrated because they

quickly conclude there's nothing in there for them. After hours and hours of putting their tax returns forward, filling out forms, there's nothing in the financial aid laws for middle-class people. That's the way people feel.

This bill changes that. For the first time in a long time, there is aid to middle-class students under this bill, and here's the way it works.

□ 1145

When your son or daughter borrows money, and we wish there were less borrowing and more scholarships, but the reality is, given the fiscal constraints we have, there is going to be borrowing. When your son or daughter borrows money, their repayment of that loan will rise as their income does. So when they are new, they have their first apartment, their first car payment, other issues in their life, their payments will be low. But as their incomes rise, their payments will rise to pay their loans back.

This is a loan repayment program that works the way life does. You start out with a low income and a lot of obligations, and hopefully your income grows. When it does, your payments do; but if it doesn't, then your payments stay reasonable.

This is the way life works. This is the way the student loan program ought to work, and I commend the chairman for his leadership in making this happen and urge a "yes" vote for this bill.

Mr. McKEON. Madam Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. PRICE), a member of the committee.

Mr. PRICE of Georgia. I thank my good friend from California for his wonderful and diligent work in this area, an area that we ought to have had a bipartisan bill.

Madam Speaker, this bill is interesting and a curious work product of this House, one that I believe will be troubling to the Nation. What the Democrat majority has done is brought together the ingredients in a huge recipe for bad policy.

So far, the new majority has kept the Republicans out of the process. Not a single House Republican, not one, was involved in the conference committee report or signed it. They have manipulated the recommendations of the administration to serve their ulterior motives, and they have disregarded input from key stakeholders and students and parents across this Nation.

As a result of this recipe, the Congress has a final product that distorts the reconciliation and puts at risk expanding college access for students over the long term.

We predicted, during the debate of the budget resolution, that the "savings," "savings" in the reconciliation process were a fig leaf. Today the House is debating a bill which spends nearly \$22 billion more in new entitlement spending just to get \$750 million in savings. That's fuzzy math.

Fact, entitlement growth, automatic spending is unsustainable and con-

sumes more than half the entire Federal budget. It is also fact that if left on autopilot, by 2030 that automatic spending will consume the entire Federal budget.

Without true spending reform, entitlements will crowd out all other spending. This bill, H.R. 2669, makes a major mistake of magnifying the problem by adding new entitlement monies.

In fact, the conference agreement dedicates \$1.17 billion to new automatic spending programs. At a time of run-away spending, the Democratic majority is intent on creating these massive new spending programs instead of dedicating the savings to deficit reduction. Such an approach continues us down the path to fiscal irresponsibility.

Now, all of that might be okay if, if the changes offered would truly help students, but they don't. The Democrats have decided to favor a Washington-run bureaucrat student-lending system rather than a flexible, responsive free market alternative. This bill cuts over \$22 billion in the Federal Family Education Loan program. The only conceivable reason to do that is to paralyze it and put it at a disadvantage to the direct government loan program or Washington-run program.

This is unfortunate because that Federal Family Education Loan program has proven to be far more successful, does a better job of providing student loans. This is reflected in the fact that for nearly every government loan, there are four loans by the Federal Family Education Loan.

In the end, Democrats want to cripple this program because they favor a centralized governmental approach to this Nation's challenges. All these drastic cuts do is put at risk the need for students and the access that they will have to a college education over time.

For these reasons, I strongly urge my colleagues to oppose the bill on the floor.

Mr. GEORGE MILLER of California. Madam Speaker, I reserve the balance of my time.

Mr. McKEON. Madam Speaker, I yield 1 minute to the Republican leader, former chairman of the Education and Workforce Committee, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. I thank my colleague for yielding.

Madam Speaker, I express my disappointment in having to oppose the gentleman's bill.

I know Members on both sides of the aisle have worked hard over the last few years, including efforts on my own behalf when I was chairman of the Education and Workforce Committee, to help make college more affordable for more of America's students.

Most of us wouldn't be here had it not been for a chance at a decent education and a college education to allow us the opportunity to be all that we can be here in America.

I think all of us agree that we want these opportunities for all students.

That's why 18 months ago, when we passed the Deficit Reduction Act, we fundamentally reformed the college loan system and saved some \$16 billion.

In that same bill we offered benefits for students, low-income students who would enter into an agreement to study math and science at 4-year institutions. I thought this was a sound bill, and we made sound efforts.

When I look at the bill before us, there are a number of concerns that I have. First is that the cuts to the private sector loan program that are involved in this bill, I think, will cripple the private sector loan program.

When you look at what the private sector has brought to students and their parents across the country, they have brought a lot of innovation. They have brought new ideas, new techniques to help more students and their families be able to afford a college education.

To cripple that, in my view, is an effort to drive more of those families and students to the direct loan program, this government-run program that, in my view, is misguided. I didn't support it, as my friend from California well knows, didn't support it when it happened some 16 years ago.

As we look at the direct loan program, it looked like a government-run program, with very few benefits for students and, clearly, not very cost-effective as well. That's my first concern.

My second concern is that we all around here, over the 17 years that I have been here, pledged fiscal responsibility. We have got to be careful about how we spend the taxpayers' funds.

When we look at the bill before us, we create five new entitlement programs. These are the programs that get put on automatic pilot. While they may be paid for here in the first 4 or 5 years, some of the provisions in this bill will cost 10 to \$20 billion over the next 10 years that's not paid for. That's according to the CBO.

While we pledge fiscal responsibility, at the end of the day, we have to stand up and do it. You know, the American people send us here to make decisions on their behalf, and fiscal decisions on their behalf.

We ought to make those real decisions. But when you look at the real long-term cost of this program, I think it's not paid for, it's fiscally irresponsible. At a time when we are trying to balance the Federal budget, this is a step in the wrong direction.

I applaud my colleague from California, the chairman of the committee and my friend. We have worked together for a long time on these issues. I applaud him for his tenacity in putting this bill together.

There is no surprise to him nor me that we would disagree about the benefits of this bill. He sees his glass as half full; I see it as half empty. I really see it empty when it comes to the issue of being fiscally responsible and standing up to do the right things that the American people sent us here to do.

I would ask my colleagues, these are the hard decisions, well-meaning bill, well meaning, well intentioned, but, long term, I think it's a real mistake for students and taxpayers here in America.

Mr. GEORGE MILLER of California. Madam Speaker, I reserve the balance of my time.

Mr. McKEON. Madam Speaker, I yield 3 minutes to the gentleman from Utah, a member of the committee, Mr. BISHOP.

Mr. BISHOP of Utah. I thank the ranking member from California.

Madam Speaker, I stand, I guess, to oppose the reconciliation bill that doesn't reconcile much. In this particular bill, it encourages direct loan programs, programs that are paid for and controlled by the Federal Government, and whether intentionally or not, a tax to discourage programs like FFEL, which are public-private partnerships where the government actually provides funds, but they are not administered by the government.

In a clumsy way of verbiage, by lumping not-for-profit programs, and not-for-profit program lenders in the same category as for-profit lenders, it creates an unintended consequence that does harm to college students in my State.

My State has a higher education authority program. It's a not-for-profit program administered by the State that provides students who have loans under this program with deductions. It's 1¼ percent automatic deduction if you have an automatic payment program. It's a 2 percent deduction on the rate after 48 consecutive payments have been on time, which means for a kid on this program on a standard \$15,000 Stafford loan, he could actually save \$2,000 over the cost of that loan and over what would happen in a direct pay program. Perhaps I am a little bit sensitive to this because I still have four kids in college, and I know what the expense of college actually means.

In this reconciliation bill, by lumping the not-for-profit programs with profit programs, the margins that they have in these not-for-profit programs are so small that these deductions will no longer be available, if, indeed, the program can survive by itself.

It will force students in my State either to pay the full government rate without any deductions or go to the full rate of a for-profit lender.

I know the intention of this bill is not to hurt kids. The intention of this bill is perhaps to rid FFEL programs; but in so doing, it actually does, in fact, hurt real kids who have programs right now or who may be having programs in the future.

Oftentimes when we fiddle around education, we have unintended consequences; but our actions here, because it is at such a gross level, have unintended consequences of hurting real live people. This bill does that. Not intentionally, but it still does that.

It would have been far better for us to do the program that the ranking member was always talking about, encouraging and expanding Pell Grants. That would do more to help kids than all the other restructuring we are doing in this particular reconciliation bill.

For those reasons, because it does hurt kids in my State, I have to oppose the reconciliation bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I reserve the balance of my time.

Mr. McKEON. I yield 3 minutes to the gentleman from Wisconsin (Mr. RYAN), the ranking member on the Budget Committee.

Mr. RYAN of Wisconsin. I thank the gentleman for yielding.

Madam Speaker, I rise in opposition to this bill, and I choose my words carefully when I say this, but this bill really, in my opinion, is a cynical attempt to make a campaign promise good. When I say that, I mean it's three things: number one, in the guise of budget reconciliation, the reason this bill is here so quickly to the floor, through conference so fast, out of the other body is they brought it to the floor through budget reconciliation.

What is budget reconciliation? It's a way of reducing the deficit, \$752 million of savings for over \$20 billion of spending. That's a cynical attempt to exploit the budget deficit reduction process to create a brand-new government program and an avalanche of new spending.

Why else is it cynical? It cuts student rates in half for 6 months, and then it doubles it 6 months later to try and shoehorn this bill into compliance with the majority's PAYGO. To try and say that they are paying for this bill, they give students, graduates, not students, graduates a cut in their interest rates for 6 months in half and then double it 6 months later.

It also, cynically, creates five new entitlement programs. What are entitlement programs? Entitlement programs are spending programs that go on autopilot. It has sunsets in these programs, but the most permanent thing in Washington is a temporary government program, especially a temporary entitlement program.

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Take all this together, and assume that Congress, down the road, will not eliminate these five new entitlement programs once they've been established. Assume they won't just cut interest rates for graduates for only 6 months, but for longer, and you've got another 20 to \$30 billion of spending out the door.

And lastly, Madam Speaker, this takes from the private sector and gives to the government. This puts onto the taxpayers' liability these liabilities. This says, instead of private firms that are out there processing loans right now that worked really well, my student loans came from these sources,

this says, no, we want the taxpayer to bear the burden. We want the taxpayer to be on the hook for these loans if they default.

Look, we have problems with loans all over. We have this meltdown in the mortgage markets with sub-prime loans, and we're saying, now, in Congress, let's put more liability on the taxpayer books? If it ain't broken, don't fix it. We have a system that works well. We have a system that helps students.

This bill does nothing to address the high cost of tuition. It cynically attempts to make it appear as though it makes borrowing a little less expensive for people after they graduate, and then it doubles the interest rate 6 months later.

For all of those reasons, Madam Speaker, the abuse of the budget reconciliation process, the increase of taxpayer liability, and the creation, irresponsibly, of five new entitlement programs, when three current entitlement programs right now are bringing us into a mountain of debt, a mountain, a legacy of debt to our children and grandchildren, the last thing we ought to do is create five new entitlement programs.

For all those reasons, I urge a "no" vote, Madam Speaker.

Mr. McKEON. Madam Speaker, I am happy now to yield 3 minutes to the gentleman from Florida (Mr. KELLER), the subcommittee ranking member on the higher education portion of the Education Committee.

Mr. KELLER of Florida. Madam Speaker, I'm going to limit my comments to the Pell Grant portion of this legislation.

I'm honored to serve as the ranking member on the Higher Education Subcommittee. I used to be the chairman of this committee before the change in Congress, but I still have the honor of serving as the chairman and founder of the Pell Grant Caucus.

Pell Grants are money we give to children from low- and moderate-income families to help them go to college. I, myself, would not have been able to go to college if it wasn't for Pell Grants. Pell Grants are truly the passport out of poverty for many worthy young people.

We believe, in a bipartisan manner, that all children, rich or poor, deserve the opportunity to go to college through Pell Grants. When this College Cost Reduction Act was initially presented in the House, I felt that it spent too much money on new entitlement programs and too little on Pell Grants. For example, it had an increase of \$5.8 billion. I was honored to serve on the conference committee. I made those comments during our conference committee. And the conference committee decided to increase the Pell Grant funding from \$5.8 billion to \$11.4 billion, doubling what was in the original House bill.

What does that mean for young people going to college? That means the

maximum award is now going to go from \$4,310 to \$5,400, phased in over time.

Whatever one may think of the rest of the provisions, pro or con, I have to tell you that is an outstanding provision in terms of a Pell Grant increase.

Now, some of my Republican colleagues may say that we're investing several billion dollars in Pell Grants and is that a wise use of money. I can tell you that these Pell Grant increases pay for themselves. The nonpartisan Advisory Committee on Student Financial Assistance said that by investing \$13 billion in Pell Grants, it helps yield up to \$85 billion in additional tax revenue. The reason is the average college graduate makes 75 percent more than the average high school graduate. So it's good for the treasury. It's good for our young people, and it's good for employment rates in this country.

I want to congratulate and thank Congressman MILLER, Congressman HINOJOSA and Congressman McKEON for all their work in substantially increasing Pell Grants. Those provisions make it much easier for young people to be able to go to college.

Mr. McKEON. May I inquire as to the time remaining.

The SPEAKER pro tempore. The gentleman has 5 minutes remaining. Mr. MILLER has 23¾ minutes remaining.

Mr. McKEON. Is there any way we could prevail upon the chairman to give us 1 or 2 of his 23½ minutes?

Mr. GEORGE MILLER of California. I'm under very strict guidelines here from the leadership.

Mr. McKEON. Just 2 minutes? Could we ask unanimous consent that we each get 2 extra minutes? I would love to hear you for 25.

Mr. GEORGE MILLER of California. I'm not going to use my time, but I'm under very strict confines here with my leadership. I've asked members of my committee not to speak, so I can't be yielding time when I didn't give it to the members of my committee. I'm sorry. I don't want to be put in that position.

Mr. McKEON. Madam Speaker, I'm happy now to yield 2 minutes to the gentlelady from North Carolina (Ms. FOXX), a member of the committee.

Ms. FOXX. Madam Speaker, this bill does absolutely nothing to improve access to a college education. It's a sham. It's another move toward socialism and taking away personal responsibility in our country.

I probably have the most experience in this area of anybody in Congress. I worked my way through college, through an undergraduate and doctoral programs without any loans whatsoever. It can be done. It is not necessary for people to borrow \$19,000 a year to go to college or come out with that kind of a debt.

I've served in the field of education. I've been a school board member, higher education administration. I've directed Upward Bound special services programs, and I know what it's like to

have, to be operating these programs. We have absolutely no accountability in the programs that we are passing here, and we need to be doing that.

The American people want significant and strong education, but they do not want to see us wasting money like we're wasting here. This is called the College Cost Reduction Act. It does absolutely nothing to reduce the cost of going to college. But it starts out a long list of complex new entitlement programs, and my colleagues have spoken very, very eloquently about that.

We still are going to have college students stuck with college costs that are going up every week because the Federal Government is involved. We're doing nothing to help the Federal Work-Study Program, which has been one of the most successful programs that the Federal Government has ever gotten into.

I can't support a bill that raises the cost of going to college instead of lowering the cost of going to college. This is going to make it even more complicated to do financial aid regulations, even though we're reducing the size of the form. What we need is a workable Federal financial aid system that helps students get a high quality education. But this bill falls far short of that standard by shifting Federal money to the institutions and to loan relief for college grads.

Mr. McKEON. Madam Speaker, I'm happy to yield 1 minute to the gentleman from Georgia (Mr. WESTMORELAND).

Mr. WESTMORELAND. Madam Speaker, Mr. RYAN from Wisconsin said all the relevant fiscal things that I wanted to say, so I want to say this. This is more smoke and mirrors. This has been a smoke-and-mirrors Congress, and this is more smoke and mirrors because it is an illusion that we're trying to sell to the American people. But they've done a good job because evidently they have sold this to the administration.

And I want to say, Madam Speaker, I am totally disappointed in the administration that they have bought this bill of goods. This is nothing but a sham.

I'm from the State of Georgia where we instituted the HOPE Scholarship Program, which worked out great for students. But what ended up happening is the colleges continued to go up on their tuition, costing the taxpayers more and more money because it was not a competitive market anymore. That's what we're fixing to get into colleges and universities all across this country. And taking the private industry out of this, making them responsible for the loans is going to put the taxpayers on the hook. It's going to be a great disaster. And again, I want the administration to know, Madam Speaker, how disappointed I am.

Mr. McKEON. Madam Speaker, we've, I think, heard some very good things about this bill. I've been on this committee now for 15 years since I

came to Congress. I've had great concerns about people that are not able to go to college. We've seen statistics that show that 48 percent of young people from lower-income families are not able to attend college because of the cost of college. I have introduced legislation. I've done what I could to try to reduce the cost of college.

This bill is called the Cost Reduction Act. It does nothing to reduce the cost of college. It gives money to schools, which we haven't done in the past. We've given the money to individual students and let them pick the school that they've gone to. It does increase the money to Pell Grants, and I appreciate that.

During the time that I was Chair of the Higher Education Subcommittee and the time that we've been in the majority, we've doubled the money going into Pell Grants, and we have a million and a half students, now, more that are receiving Pell Grants than before. And that's good.

But the thing about this bill that really bothers me, I guess, is the promise it holds out to students that they're never going to receive. It reminds me of a TV contest, game contest that I've seen in the past that showed three curtains or three doors, and you tried to pick the door that had the great prize. And my concern is that these students are going to start school with the idea that their interest is going to be cheaper 4 years, 5 years from now when they graduate, and they're going to find that it's not. There's a promise there that when they open that door they're going to find a huge tax burden. They're going to find huge loan burdens.

And what we should be working on in a cost reduction bill is something that actually addresses what we can do to lower the cost of a college education, not the loan interest. What we should really be trying to do is address the core problem, the cost. College cost has been going up four times faster than people's ability to pay for the last 20 years. We should be addressing that problem. We should oppose this bill.

Madam Speaker, I yield back the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I would like to thank the chairman of our subcommittee, RUBÉN HINOJOSA, and all of the members of the conference committee for their valuable contributions to this legislation.

I would also like to thank Chairman SPRATT, who spoke earlier, for providing the reconciliation process, and all of the work that their staff did to make sure that we complied with the reconciliation process and we complied with the PAYGO rules so that there would be no new costs to this legislation to provide these benefits to students and to their families. And I want to thank his staff, Tom Kahn and Sarah Abernathy and Lisa Venus.

I would also like to thank Senator KENNEDY and Senator ENZI for their

help and their staffs' work with us to have a successful conference and a conference report on this act.

And I'd like to thank the Education and Labor Committee staff, Mark Zuckerman, Alex Nock, Stephanie Moore, Denise Forte, Gaby Gomez, Julie Radocchia, Jeff Appel, Rachel Racusen, Lisette Partelow, Lamont Ivey, Sarah Dyson, Ricardo Martinez and Moira Lenehan of Representative HINOJOSA's staff.

This work could not have happened without the long hours put in by a very diligent, committed legislative counsel, and I want to thank Steve Cope and Molly Lothamer.

Given that we must balance our numbers, we appreciate the significance of work provided by the staff at the Congressional Budget Office, including Paul Cullinan, Debb Kalcevic and Justin Humphrey.

The Congressional Research Service has been particularly supportive of our efforts, in particular, Adam Stoll, Charmaine Mercer, David Smole, Becky Skinner and Jeff Kuenzi.

I want to thank all of these individuals, and certainly I want to thank the students who, for so many years have tried to get the Congress to respond to their needs and to the needs of their families if they have to borrow money to go to school, to go to school and to achieve a higher education, to achieve the education that that provides.

I certainly want to thank USPIRG and the United States Student Association and many others who worked so hard over these past years.

We remember just a year ago, just a year ago we were here in the reconciliation process when \$11.9 billion was taken out of this very same account, but rather than to use it for the benefit of the students, that \$11.9 billion went to pay for the tax cuts to the wealthiest people in this country.

We took \$11.39 billion out of this same account and we gave that to the Pell Grant students, to the most needy students in this country who need it the most. That's the difference that an election makes. That's the difference that a year makes. That's the difference that a lot of hard work by the students across this country and their families have made as they've asked Members of Congress to address this issue.

This legislation, just earlier today, passed in the Senate by an overwhelming bipartisan vote of 79-12.

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It has now been stated that the President of the United States supports this legislation and will sign this legislation.

I would hope that all of my colleagues on both sides of the aisle would understand the importance of this legislation, the value of this legislation to our students and to their families as we know so many of them struggle to put together the means by which they can pay for the college education of the

students. One of the very great moments in a parent's life is when a student gets accepted into college, the students announce they want to go to college, and then you immediately start to think about how we are going to pay for this.

This legislation will make it a lot easier for a lot of parents and a lot of students who desperately need this help.

I ask all of my colleagues to support the conference report and let's join this bipartisan coalition and help America's families and students. I thank everybody for their cooperation.

Mr. LANGEVIN. Mr. Speaker, I am pleased to rise in support of H.R. 2669. Since my arrival in Congress, I have worked to support initiatives that would expand access to higher education for all students, regardless of disability, background or economic circumstances. Need-based federal student aid programs have leveled the playing field for so many students, yet in recent years the purchasing power offered by a Pell grant has dwindled. Meanwhile, college education costs have soared, and more and more students struggling to keep up with loan repayments have found themselves locked into high interest rates and unable to consolidate their debt. Others have seen their dreams of higher education go unrealized, due to concerns about how they could possibly pay for it.

Today, Congress takes a meaningful step to address these issues. The College Cost Reduction Act, the single largest investment in education since the GI bill, will cut interest rates in half on subsidized student loans over the next four years, make student debt more manageable for those facing economic hardship and increase the purchasing power of the Pell grant. Additionally, this bill will encourage and reward public service by offering loan forgiveness and repayment of our most dedicated military service members, nurses, early childhood educators and others who take on some of the most needed and challenging—but not the most lucrative—professions. In the battle to improve access to affordable education, the passage of the College Cost Reduction Act is a tremendous victory.

I strongly believe that the passage of this bill into law will make America stronger. While our Nation certainly faces challenging times of war and economic hardships, we should take tremendous hope and pride in the investments that Congress is making in the future by expanding access to higher education. I am proud to support this legislation and urge my colleagues to vote in favor of H.R. 2669.

Mr. HARE. Mr. Speaker, as a Member of the Education and Labor Committee, I rise today in strong support of the College Cost Reduction and Access Act—the single largest investment in college financial aid since the 1944 GI bill.

Working families in Illinois and around the Nation continue to struggle with the rising costs of college. This historic investment in higher education will begin to put a college degree back in reach for millions of average Americans, and do so at no new cost to U.S. taxpayers.

The College Cost Reduction and Access Act would make need-based student loans more easily accessible and provide for additional mandatory funding for the Pell grant scholarship by at least \$1,090 over the next 5 years,

benefiting nearly 230,000 students in Illinois, including over 22,000 newly eligible beneficiaries. Illinois students and their families will receive more than \$1.2 billion over 5 years in the form of student loans and Pell grants as a result of this legislation.

Mr. Speaker, this bill includes a provision to cut the interest rate on subsidized student loans in half over the next 5 years—from 6.8 percent to 3.4 percent, benefiting 128,765 student borrowers in Illinois. Once fully phased in, it would save the average 4-year college student, who begins school in 2011, \$4,510 over the life of his or her loan.

The College Cost Reduction and Access Act pays for itself by reducing excessive Federal subsidies paid to lenders in the college loan industry by \$20 billion. In the current budget-tight environment, the Federal Government should not be over-funding lenders while families struggle to send their kids to college.

Making college more affordable and accessible for working families is good for our economy, national security, and competitiveness in the world. I was proud to play a role in crafting this landmark legislation from the very beginning and I am honored to vote for its passage today. I urge my colleagues to join me in making college more affordable for our students and urge the President to sign this bill into law.

Mr. LOEBSACK. Mr. Speaker, I strongly support the College Cost Reduction and Access Act of 2007. This important legislation will provide thousands of Iowa's students and families with the financial support they need to attend college by increasing the purchasing power of the Pell grant. Next year the scholarship will increase by \$490 and by 2012 the grant will reach \$5,400.

The bill also provides upfront tuition assistance and makes it easier for students who pursue careers as public school teachers. In Iowa, 36 percent of students who attend public 4-year schools graduate with unmanageable debt levels if they choose to take a teaching job in the State.

As a college teacher in Iowa I regularly encountered students struggling to afford their education, and I'm certain that this bill makes the right investments at a critical time for our students. I urge my colleagues to support this bill and strongly support its passage.

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in opposition to the Conference Report on H.R. 2669. As the father of three college graduates and a college sophomore, I am all too familiar with the financial burden higher education poses on families and students.

As lawmakers, our number one higher education priority should be to ensure that college is affordable for any student. Instead of helping students, the conference agreement would require student borrowers to pay thousands more for a college education.

The conference agreement does not contain any language to address the issue of rising college costs. Instead of holding colleges and universities accountable for how they spend taxpayer dollars, the agreement does the exact opposite and throws additional Federal funds at institutions while denying new information to consumers.

The most appalling aspect of this agreement is that it achieves minimal deficit reduction. The conference agreement only produces \$750 million for deficit reduction, even though

the bill cuts \$22.3 billion from the student loan program. Last year, President Bush signed into law a Republican reconciliation measure that achieved a full \$12 billion in deficit reduction while increasing benefits for students.

I urge my colleagues to vote against this agreement and encourage President Bush to veto this legislation if it comes to his desk.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 2669 the College Cost Reduction Act. I would like to thank Chairman MILLER and his staff for this bill that will provide New Jersey residents an additional \$262 Million in loan and Pell grant aid.

Once signed into law, this legislation will ensure that more Federal student aid money gets to the students who need it, and in New Jersey, the need is great. Over 61,000 students in New Jersey take out need-based loans for 4-year schools each year and incur an average of over \$14,000 in debt. Under the legislation, the maximum value of the Pell grant scholarship would increase by \$1,090 over the next 5 years, reaching \$5,400 by 2012. This increase would fully restore the purchasing power of the scholarship, which in recent years had been frozen at \$4,050 until Congress boosted its value to \$4,310 earlier this year.

I am pleased that the committee included several initiatives that I have been working on, including provisions from my bill H.R. 2017, the Part-time Student Assistance Act. We have raised the income protection allowance in the College Cost Reduction Act so that working students can work more without having that count against their student aid. Further, we were able to eliminate the earned income tax credit from calculations so that working families do not have to bear this burden.

The bill also provides upfront grant aid for those who are becoming math, science, and foreign language teachers. The bill would create grants providing upfront pre-paid tuition assistance of \$4,000 per year with a maximum of \$16,000 for elementary or secondary school math and science teachers and critical foreign language teachers. Our classrooms have an increasing shortage of teachers for these vital subjects. This problem is most severe in school districts where students come from disadvantaged backgrounds. Without qualified teachers in these areas, we are endangering the competitiveness of our children in the global economy.

Students who take out loans or receive Pell grants will now find it easier to finance their education. By investing in foreign language and math and science education, we'll enhance both our economic and national security. Part-time students will have an easier time balancing the need to care for their families and improve their education. This is public policy at its best—it lifts up Americans from all walks of life.

Mr. Speaker, this bill is an investment in our future. Without providing access to a college education we will not be able to compete with nations that have already made the investments in providing a quality education for their own children. The United States is a dominant world economy because of our educated workforce. With this bill we will take a larger step toward maintaining this edge and I ask my colleagues to support it.

Mrs. BIGGERT. Mr. Speaker, there are a few provisions in H.R. 2669 that I believe are very important to students and parents across the country.

I support the increases in Pell Grants and cuts to interest rates on federally subsidized student loans provided in H.R. 2669. These provisions are the most effective way we can help low and middle income students achieve the dream of a college education, and I am pleased this bill will provide relief for those students.

I am also pleased that the final bill includes a small but very important provision that is similar to legislation I have introduced, the FAFSA Fix for Homeless Kids Act.

The current Free Application for Federal Student Aid, or FAFSA, creates insurmountable barriers for unaccompanied homeless youth—youth that are homeless and alone. These children do not receive financial support from their parents, and many do not have access to parental financial information or a parental signature required by the FAFSA. As a result, unaccompanied homeless youth are prevented from accessing the financial aid they need because they cannot supply the information required by the FAFSA.

The FAFSA Fix for Homeless Kids Act addresses these barriers by allowing unaccompanied homeless youth to apply for federal financial aid without providing parental income information or a parent signature. This will open the doors of higher education to some of our nation's most vulnerable youth, and I am pleased that H.R. 2669 includes the FAFSA Fix for Homeless Kids Act.

While I am encouraged that H.R. 2669 includes these provisions, I still have serious concerns about a number of other provisions in the bill. Specifically, I oppose the mandatory spending in the bill that is directed at institutions and philanthropic organizations. It is unprecedented to provide mandatory spending to these organizations. Instead of creating new and complicated programs, we should have provided additional funding to Pell Grants.

I also have concerns about the viability of the Federal Family Education Loan Program. During the last Congress, the Education and the Workforce Committee made \$20 billion in changes to the Federal Family Education Loan Program by eliminating and reducing federal subsidies to lenders. Just two years later—certainly not long enough to evaluate the impact of those changes—we are back again squeezing student loan lenders. Does the Democratic leadership expect lenders to continue offering student loans out of the goodness of their hearts? This program is essential to the students and families in my district, and I hope that this legislation is not a back-door attempt to kill the Federal Family Education Loan Program.

I support H.R. 2669 because of the additional funding provided for Pell Grants, the decrease in student loan interest rates, and the hope it will give to unaccompanied homeless youth. However, I have serious concerns about the mandatory spending created in H.R. 2669 and the viability of the Federal Family Education Loan Program. I hope that in the future that we can work in a more inclusive manner to address the skyrocketing costs of college without adding to the deficit that students we are trying to help will eventually have to repay.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of this important legislation to reduce the costs of college for low-income and middle class families. I urge my colleagues to join me in voting to pass it.

As the first member of my family to graduate from college, I know firsthand that affordable access to higher education is the key to the American Dream for working families. My life's work has been to improve educational opportunities for all because education is the key to the future. Education levels the playing field and empowers every individual willing to work hard the ability to make the most of his or her God-given talents. This legislation will make a real difference to make college more affordable without raising taxes while maintaining budget discipline.

Specifically, this bill will cut in half the interest rate on federally subsidized Stafford Loans over the next five years, from 6.8 percent to 3.4 percent. Under this conference report, the average North Carolina student starting school in 2007 will save \$2,200 throughout the life of the loan, and the average N.C. student starting school in 2001 will save \$4,270. This legislation also will raise the maximum value of the Pell Grant scholarship by \$1,090 by 2012.

The bill will help ensure a highly qualified teacher in every classroom by providing upfront tuition assistance to qualified undergraduate students who commit to teaching in public schools in high-poverty communities or high-need subject areas. It will encourage public service by providing public servants loan forgiveness after ten years of public service for military servicemembers, first responders, nurses, educators, and others. Finally, this legislation will make historic new investments in minority-serving institutions and encourage state and philanthropic participation in college retention and financing to increase the number of first generation and low-income college students.

I want to congratulate Chairman MILLER for this accomplishment and thank him and his great staff, including Gabriella Gomez, Denise Forte and Mark Zuckerman, for working with me to ensure that the bill does not unintentionally harm North Carolina's nonprofit lending agency. I am pleased the President has committed to signing this bill into law, and I encourage all my colleagues to vote for it.

Mr. SMITH of Nebraska. Mr. Speaker, I rise today to urge my colleagues to vote against H.R. 2669, a bill which does not reduce the cost of a college education, but creates five new entitlement programs and expands the reach of government programs over non-profit and commercial lenders.

The measure contains \$21.5 billion in new spending over five years while saving only \$752 million for deficit reduction. The bill cuts \$22.3 billion from the Federal Family Education Loan (FFEL) program, to force a shift to the government's direct lending program, increasing the government's role.

H.R. 2669 spends \$7.1 billion on college graduates by gradually phasing down interest rates from 6.8 percent to 3.4 percent over four years, before allowing rates to return to the original rate in July 2012 to recover the costs of the new spending.

What we are voting on today does nothing address the problem facing college bound students—rising college costs. Instead of holding colleges and universities accountable for how they spend taxpayer dollars, we are doing the exact opposite. We are helping graduates, not students, and expanding the Federal government.

Budget gimmicks won't teach our children, and won't make college more affordable for

low- to middle-income families. Until we take a real, thoughtful look at the reasons behind the skyrocketing cost of a higher education, we are simply going to continue to pass legislation that sounds good, but does little.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Conference Report for H.R. 2669, the Education and Labor College Cost Reduction Act of 2007, the single largest investment in higher education since the GI Bill. This important legislation does far more than ease the burden of student loans for college graduates—it will make the American dream possible for low- and middle-income students, helping families pay for college. I would like to thank Chairman MILLER for introducing the legislation, as well as his steadfast commitment to this important issue. May I also thank Speaker PELOSI for her visionary leadership in leading America in a new direction. I am proud to be part of a Democratic majority that delivers on its promises to the American people.

Mr. Speaker, in 21st century America, a college education is a critical investment toward individual success, as well as toward the strength of our nation. Higher education is associated with better health, greater wealth, and more vibrant civic participation, as well as national economic competitiveness in today's global environment. As the need for a college degree has grown, however, so has the cost of obtaining that education. The result is rising student debt. Students graduating often leave school with far more than knowledge and a degree; many face years of having their financial lives dictated by the burden of debt. Their choices of careers and jobs may be severely constrained by the necessity of repaying these loans.

This bill strengthens the middle class by making college more affordable: 6.8 million students who take out need-based federal student loans each year will see the interest rates on their loans halved over the next four years, saving the typical borrower (with \$13,800 in need-based loan debt) \$4,400 over the life of the loan, once fully implemented. With the recent sub-prime lending crisis and subsequent economic turmoil, the United States economy lost over 4,000 non-farm jobs in the month of August. More and more middle class students will be in need of assistance to turn their college dreams into a reality. This legislation makes student loan payments more manageable for borrowers by guaranteeing that borrowers will not have to pay more than 15 percent of their discretionary income in loan repayments. It also allows borrowers in economic hardship to have their loans forgiven after 25 years.

This Conference Report contains many important provisions that make significant strides toward making the dream of higher education a reality for more Americans than ever. It provides an increase in college aid by roughly \$20 billion over the next five years, with no additional burden on American taxpayers. By cutting excessive federal subsidies to lenders, this legislation pays for itself.

This Conference Report contains a specific commitment to minority-serving institutions. It authorizes \$510 million for Historically Black Colleges and Universities, Hispanic-Serving Institutions, Tribal Colleges, Alaska Native and Native Hawaiian institutions, and the newly designated Predominantly Black Institutions. These funds will work to ensure that students

will not only enter college, but remain and graduate. About 2.3 million students attend minority-serving institutions, including 1/3 of all minority students who attend college.

This new investment is particularly critical for African-American students and their families. African-American students currently comprise about 12 percent of all undergraduate students. Many institutions have helped black students bridge ethnic-related economic barriers, making college education possible for underprivileged minorities. Among Historically Black Colleges and Universities (HBCUs), which give African American students an opportunity to have an educational experience in a community in which they are a part of the majority, costs are also rising. This resolution would support many of these honorable institutions in their righteous deeds in educating our underprivileged students of color.

In addition, this bill encourages and rewards public service. Students who pursue careers as public school teachers will receive upfront tuition assistance of \$4,000 per year, to a maximum of \$16,000, providing aid to at least 21,500 undergraduate and graduate students. This is particularly important, given that 23 percent of public college and 38 percent of private college graduates have student loan debt that is unmanageable on the starting salary of a teacher. By providing the guarantee of assistance, this bill is an important step toward ensuring that there is a highly qualified teacher in each of America's classrooms.

Similarly, public servants will receive complete loan forgiveness after ten years of service. This will assist our driven young people who want to serve their country in the military, law enforcement, or as first responders, firefighters, nurses, public defenders, prosecutors, and early childhood educators. It ensures that dedicated Americans will not be precluded from serving their country because of a preponderance of debt.

Mr. Speaker, I also support the Conference Report for H.R. 2669 because it will increase the maximum Pell Grant award by \$1090 over the next five years to \$5,400. It will also increase eligibility by raising the income threshold, allowing more students from more families to automatically qualify for grants. The Federal Pell Grant Program prides itself on providing need-based grants to low-income undergraduate and certain postbaccalaureate students to promote access to postsecondary education. These grants are particularly important for students of color, with 45 percent of African American and Hispanic students at four-year colleges depending on Pell grants, compared to 23 percent of all students. Approximately 4.5 million students currently depend on Pell Grants and "over 70 percent of Pell Grant funds go to students from families with incomes of \$20,000 a year or less." Increasing the maximum Pell Grant Award will expand racial and ethnic diversity in higher education institutions, benefiting not only the institutions, cultural background but it will also be a great learning experience for students to learn diverse cultural backgrounds different from their own.

In addition, the Conference Report for H.R. 2669 cuts the interest rates on subsidized student loans in half from 6.8 percent to 3.4 percent over five years. Once fully implemented, this cut would save the typical borrower—with about \$13,800 in need-based loan debt—\$4,400 over the life of the loan. By cutting interest rates on federal loans, Congress can

save college graduates thousands of dollars over the life of their loans. Mr. Speaker, recent graduates, especially those of minority status with low to moderate incomes, must spend the vast majority of their salaries on necessities such as rent, health care, and food. For borrowers struggling to cover basic costs, student loan repayment can create a significant and measurable impact on their lives.

Crushing student debt also has societal consequences, according to a report by two highly respected economists, Drs. Saul Schwarz and Sandy Baum. The prospect of burdensome debt likely deters skilled and dedicated college graduates from entering and staying in important careers such as educating our nation's children and helping the country's most vulnerable populations.

To solve this problem and ensure that higher education remains within reach for all Americans, we need to increase need-based grant aid; make loan repayment fair and affordable; protect borrowers from usurious lending practices; and provide incentives for state governments and colleges to control tuition costs. H.R. 2669 is an important step in a new and right direction for America.

Last November, House Democrats promised a New Direction for America. This bill, the single largest investment to higher education, comes at no additional cost to American taxpayers, but brings extraordinary benefits for our nation. I am proud to be part of a Democratic majority that delivers on its promises to the American people.

I urge my colleagues to vote in favor of adoption of the Conference Report for H.R. 2669, the Education and Labor College Cost Reduction Act of 2007.

Mr. COURTNEY. Mr. Speaker, I rise today in strong support of the Conference Report to accompany H.R. 2669, the College Cost Reduction and Access Act. I thank Chairman MILLER for shepherding this bill through the House so that it can be signed into law by the President.

This legislation marks the single largest investment in higher education since the 1944 GI bill and at no new cost to taxpayers. The investment is available because this new Congress cut excess subsidies that the federal government pays to the student loan industry.

As I travel around eastern Connecticut, I hear from so many students and families about their concerns with the cost of higher education and the amount of debt they are taking on to finance that education. Unfortunately, students across the country are graduating with about \$18,000 of debt upon graduation. This debt can have a crippling effect on young adults as they embark on their career path after graduation.

I often refer to the Connecticut district I represent as the higher education district. For this reason, I am pleased to be a member of the Education and Labor Committee and the Higher Education, Lifelong Learning and Competitiveness subcommittee. My district is home to the University of Connecticut, Eastern Connecticut State University, Mitchell College, Connecticut College and Lyme Academy. In addition, Asnuntuck Community College, Three Rivers Community College and Quinebaug Valley Community College are located in eastern Connecticut.

Students have access to a myriad of educational opportunities in eastern Connecticut and this legislation before us today will expand

the Pell Grant program that so many students rely on—the maximum value of the grant will grow by \$1,000 to a maximum value of \$5,400 in five years. The Pell Grant Program is so important that during committee consideration of H.R. 2669, I offered an amendment to boost funding by \$900 million. I am pleased that the Conference agreement invests in the Pell Grant program even more. Further, and of paramount importance to so many families, the interest rate on loans will be cut in half from 6.8 percent to 3.4 percent after four years.

The College Cost Reduction and Access Act also provides loan forgiveness for people after 10 years of public service in areas such as law enforcement, first responders, fire fighters, nursing and early childhood education.

This new Congress continues to keep faith with a promise to chart a new direction for this country. This Congress is showing its mettle by breaking down barriers to affordable education and boosting middle-class families.

If we are to maintain our competitive advantage in the world and ensure that more Americans achieve economic prosperity, we must make higher education attainable and affordable. I urge my colleagues to support the College Cost Reduction and Access Act.

Mr. TERRY. Mr. Speaker, I reluctantly rise in opposition to this conference report. I do so in spite of my past support for increases in Federal student loan programs and expanded access to college for all young people regardless of their economic status.

As a young student at the University of Nebraska and Creighton Law School, I had to rely on student loans and part-time jobs to cover my tuition, books, and living expenses. And I know that for many families that is also the only way their children can afford to meet the rising costs of a college education. That is what I have consistently voted for, increases in Pell grants and the reduction of interest rates from 6.8 percent to 3.4 percent. I am also a cosponsor of H.R. 722, a bill to increase the maximum Pell grant award to \$4,810 for academic years 2008–2014.

There are three reasons why I have decided to vote against this bill. First, this Conference Report provides \$22.3 billion in cuts to federal spending, over five years, but then at the same time spends roughly \$21.57 billion in that same period time period which amounts to \$752 million in deficit reduction. When H.R. 2669 passed in the House, it was estimated to cut spending by \$20.38 billion, and spend \$17.58 billion, leaving a remainder of \$2.79 billion in deficit reduction. Unfortunately, much of the spending in the Conference Report goes towards five new entitlement programs and graduates of college rather than current students.

The second reason that I cannot support this legislation is that many of its provisions will drive private sector lending companies out of the market place, reducing the choices for student borrowers and eventually making the U.S. Department of Education the lending option of last resort. That is probably the intended purpose. A government agency replacing the free market.

In addition to reducing loan rates, it reduces the level of insurance that private lenders can use to off-set student loan defaults, and makes other cuts that will reduce incentives to remain in the student loan business.

It also eliminates the exceptional performer incentive program for good lenders who help

students restructure their loan agreements if they are having trouble meeting their loan payments. Also, loan origination fees for lenders would be increased. All of these punitive provisions will reduce the number of private sector student loan firms thus reducing student loan choices for students. I also believe private capital working with the secondary markets creates more dollars to offer students than does the U.S. Department of Education.

Finally, Mr. Speaker, even though the conference report contains savings that pay for the many new entitlement programs created by the legislation, at the end of 5 years, the American taxpayers will be asked to pay the entire cost of these new programs. History tells us that once a Federal entitlement program is created, it will not die. We cannot afford to create another unchecked Federal entitlement spending program that will only contribute to the future inflation of college costs.

Mr. Speaker, I urge a "no" vote on this conference report.

Mr. VAN HOLLEN. Mr. Speaker, I am proud to stand today to support the College Cost Reduction and Access Act. I thank Chairman MILLER and the Conferees for their quick work on this Conference Report, and all the work they have done on this important legislation.

Mr. Speaker, for years, American students and families have demanded relief from rising tuition and ballooning debt. The average student exits college with almost \$20,000 in student loan debt, which, because of accumulating interest, can take years to pay. This debt is burdening our communities. When a student has tens or even hundreds of thousands of dollars of debt, it limits choices. Those students might not be able to take lower salary jobs in the fields where we desperately need them—as teachers or first responders. When two-thirds of our college graduates are in debt, it limits our economy. Those graduates have less money for a down payment on a house, less money to invest, and less disposable income.

Even worse, some students are deterred from going to college altogether when costs are too high. We lose some of the best and the brightest—those who are qualified to learn, who want to learn, who have worked hard and gotten the grades, but who run into financial barriers when it comes time to head off to college.

Today, we are bringing some relief. We are going to open the doors to college and help our young people reach their full potential. We're going to increase Pell grants to make college more affordable. We're going to cut the interest rates on loans in half so they're easier to pay off. We're going to institute income-based loan repayment, so graduates don't have to choose between paying their rent and paying off their loans. And we're going to expand loan forgiveness for those who enter public service, so we have more teachers, first responders and nurses.

We made a promise to the American people before the last election. We've been working to fulfill that promise from the first 100 hours of the new Congress. And today, as our young people head back to school, the House and Senate are going to see that promise through with largest increase in student loans since the G.I. bill.

Mr. SCOTT of Virginia. Mr. Speaker, I rise in support of the Conference report to H.R. 2669 the College Cost Reduction and Access

Act. I would like to thank my colleagues who worked diligently to bring this legislation before the full Congress, including Chairman MILLER, Chairman KENNEDY, and Subcommittee Chairman HINOJOSA.

The College Cost Reduction and Access Act takes savings generated as a result of the reconciliation process and makes four major investments in America's students, especially students in African American communities.

First, the bill will increase the maximum Pell grant scholarship—the Federal scholarship for low- and moderate-income students—over the next 5 years to \$5,400. This increase in the Pell program is critical. Since the 2001–2002 school year, tuition at public four-year colleges has risen 55 percent. Unfortunately, during that same time period, the maximum Pell grant award increased by less than 8 percent and did not increase at all over the past 4 years.

Second, H.R. 2669 will cut the interest rate on student loans in half over the next 4 years. This interest rate reduction will provide enormous relief to the many students who take out subsidized Federal loans.

Third, this legislation will make a strong and historic investment in Historically Black Colleges and Universities and minority serving institutions. HBCUs represent an important piece of our history and investments in HBCUs are imperative for both student services and programs as well as institutional needs and infrastructure improvements. The College Cost Reduction and Access Act shows this commitment by improving and increasing funding for much needed student programming and opportunities. The funding for these colleges and institutions can be used for a variety of important programs and needs, including science and lab equipment, library books, and enhancement of certain disciplines of instruction such as math, computer science, engineering and health care.

This funding will go a long way toward closing the achievement gap that exists across our nation and helping those who wish to better themselves through education achieve their goals. The bill also provides, for the first time ever, funding for Predominantly Black Institutions and Asian and Pacific Islander-serving institutions, thereby recognizing the importance of institutions of higher learning that serve these communities. In addition, it also provides additional funding to Hispanic-serving institutions, Tribal Colleges and Universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions. While this funding will cover only a portion of the unique needs of these historical places of learning, I appreciate the commitment that members of the House Education and Labor Committee have expressed to continue to find ways to support these important institutions.

Finally, the College Cost Reduction and Access Act includes a provision to aid the Upward Bound program, which is the last hope and ticket to the future for many low income and first generation college students. The bill includes an additional \$228 million to fund both new and prior funded Upward Bound programs across the Nation. This funding will reach several Upward Bound programs at HBCUs. In this grant cycle, 30 percent of Upward Bound programs at HBCUs would have been eliminated despite an increase in the total number of Upward Bound programs receiving grants. This provision would also pro-

vide funding to other deserving Upward Bound programs including programs serving Hispanic students.

I believe the College Cost Reduction and Access Act contains critical support for our nation's higher education system and I urge my colleagues to support the conference report.

Mr. WELDON of Florida. Mr. Speaker, I join with my colleagues in support of efforts to make college education more affordable for more Americans. Indeed, earlier this year I voted in support of H.R. 5, the College Student Relief Act of 2007. I believed that bill took some positive steps.

Unfortunately, the bill that is being brought before the House today for consideration, H.R. 2669, is full of budget gimmicks, creates five new entitlement programs, spends tens of billions of dollars, and shifts from the private sector to the taxpayers the potential liability for billions of dollars should student loans borrowers default.

I am very disappointed that the bill before us, H.R. 2669, falls far short of its goal. While those who drafted the bill assert that it is a comprehensive solution to making college more affordable, H.R. 2669 fails to address the core problem of access to U.S. colleges and universities: sky-rocketing rates of tuition and room and board. In just the last 7 years, annual inflation has increased on average 2.7 percent. However, higher education costs for students have increased an average of 4.2 percent—a rate that is 55 percent higher than regular inflation. This bill takes a pass on addressing that fundamental issue, and simply makes it easier and more likely that students will borrow more money and accumulate a larger debt by the time they graduate from college. H.R. 2669 completely ignores the root problem. The end result of this bill will be that the average college student graduating from college 4 years from now will still face a higher college debt than those graduating this year—even with all of the billions of dollars included in this bill.

Under H.R. 2669, those attending college in the future will be able to borrow more money and perhaps pay a lower interest rate for a short period of time, but with college expenses growing at a rate that far exceeds the annual inflation rate, students will end college with a significantly larger debt.

This bill creates five new Federal entitlement programs, costing tens of billions of dollars. In an attempt to feign compliance with the pay-as-you-go rules adopted by the current Congress, the Democrats include a provision that sunsets these new entitlement program. This is a budget gimmick designed to fool the American people. Does anyone really think that when these programs expire and students are half way through their college education, they will simply be allowed to expire? Of course they won't, and taxpayers will be forced to hand over tens of billions of additional dollars to continue these programs. Incidentally, this will come at about the same time when the House-passed state children's health insurance program, SCHIP, funding dries up and Congress will be looking for tens of billions of dollars to extend that program. Creating five new entitlement programs and spending tens of billions of dollars puts this nation on a path to financial ruin.

The bottom line is that H.R. 2669 enables students to take on more debt which will further burden them for many years past gradua-

tion. In 2006, the Higher Education Price Index, HEPI, calculation showed that inflation for colleges and universities jumped to 5 percent. This is 30 percent higher than the consumer price index, CPI—the regular inflation rate. When colleges and universities know that students have access to more funds through financial aid, loans, and grants, they have simply seen this as an opportunity to raise costs for students. This was the case in the past when college loan limits were significantly expanded and it will be repeated after this bill is passed.

The bill takes a pass on encouraging colleges and universities to put a lid on uncontrolled tuition increases. But it's not surprising given that this is the same Democrat majority that created a massive \$100 million lobbying loophole for public universities. If we truly want to help our students go into the world with a good education saddled with less debt, we should hold colleges and universities who take government aid more accountable and not allow them to continue their excessive increases in college costs. Colleges and universities have an obligation to exercise fiscal responsibility rather than simply seeing these new student loans and grants as an opportunity to shift more of their fiscally irresponsible costs onto the backs of students and taxpayers.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KAGEN). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PATENT REFORM ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 636 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1908.

□ 1223

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1908) to amend title 35, United States Code, to provide for patent reform, with Ms. SOLIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Madam Chairman, I yield myself such time as I may consume.

Members of the House, I am proud and privileged to be the chairman of the Judiciary Committee for this historic consideration of the Patent Reform Act of 2007.

I can't help but begin by commending those members of Judiciary who were in this battle before I became chairman, namely, LAMAR SMITH of Texas; namely, HOWARD BERMAN of California; namely, Mr. COBLE of North Carolina, all who have worked in a remarkable way. Even when the leadership changed in the committees and SMITH became ranking and BERMAN became Chair, the cooperation and bipartisanship continued. I think it is important to lay that groundwork because of the intense cooperation in which we have sought to consult with every conceivable organization, individual, all stakeholders in this matter; and I think it has had a very telling effect on a bill that brings us all together here this afternoon.

After all, patent reform is enshrined in the Constitution, isn't it? Article I, section 8. After all, we have had a patent office pursuant to constitutional direction since 1790. So for a couple hundred years, this has been the driving force for American competition, creativity, inventiveness, and a prosperous economy. Thomas Jefferson was the first patent examiner in our American history. So I am humbly standing in the well to tell you that the continued robustness of the patent concept is very important. It has been estimated that the value of intellectual property in the United States amounts to \$5 trillion, and much of that is in the value of the patents that come from the legislation produced by this bill.

Well, if it is so great, why are we here? Well, because certain things have happened over the course of years that need some re-examination. One of them is the trolling situation in which patents of less than high quality, they have created a whole legal industry, as some will continue to describe here today, in which, with very little pretext or excuse, patents are challenged and create a huge nuisance value. They flood the courts with unnecessary litigation. There are abusive practices that have grown up around the concept of patents, and there are certain inefficiencies where, for example, we use the first-to-invent system of granting patents, while most of the active and creative inventors in other countries use the first-inventor-to-file system, and we harmonize that in this legislation.

So there are problems, and they have been addressed with great care, because sometimes they go against the grain or to the detriment of the rest of the people, the stakeholders in this great legal activity of granting patents.

So I am here to tell you that we finally closed the circle, and I am proud of this, being from the highly organized

State of Michigan, that with our friends in Labor we have been able to work out differences that they had originally had with this measure. All the consumer groups, there are several of them that have now joined with us. The United States Public Interest Research Group has come in. The pharmaceuticals have mostly come in. The Association of Small Inventors has come in.

We have done a great job, and we have created a manager's amendment to which we have allotted 20 minutes to discuss separately from the bill itself. I am proud, as you can tell, of the bipartisan nature of this work, because that is what it takes to make some 22 changes in the manager's amendment, more than two dozen changes in the underlying bill; and dealing with the question of damages and post grant opposition are stories that can only be told by the gentleman from California with his appropriate brevity. So it is in this spirit that we begin this final discussion of this measure.

I thank all the Members of the Congress not on the Judiciary Committee who have helped us in so many different ways.

Madam Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Chairman, I yield myself such time as I may consume.

I strongly endorse H.R. 1908, the Patent Reform Act of 2007, and I urge my colleagues to support American inventors, American businesses, and the American people by voting for this bill today.

Last year we laid a substantial foundation for patent reform. It was a good start, but we need to finish the job now. The Patent Reform Act is the most significant and comprehensive update to patent law since the 1952 act was enacted. The Judiciary Committee has undertaken such an initiative because changes to the patent system are necessary to bolster the U.S. economy and improve the quality of living for all Americans.

There are two major reasons the committee wrote the bill: first, too many patents of questionable integrity have been approved. Second, holders of these weak patents discovered a novel way to make money, not by commercializing the patents but by suing manufacturing companies whose operations might incorporate the patents. This combination of weak patents and "seat-of-the-patents" litigation has hurt the economy.

Most companies don't want to risk shutting down their operations in response to a questionable lawsuit. Nor do they have much faith in a legal system in which juries and even judges become confused by the complexities of patent law. The result: legalized extortion in which companies pay a lot of money to use suspect patents.

The bill will eliminate legal gamesmanship from the current system that

rewards lawsuit abuses. It will enhance the quality of patents and increase public confidence in their legal integrity. This will help individuals and companies obtain money for research, commercialize their inventions, expand their businesses, create new jobs, and offer the American people a dazzling array of products and services that continue to make our country the envy of the world.

All businesses, small and large, will benefit. All industries directly or indirectly affected by patents, including finance, automotive, manufacturing, high tech, and pharmaceuticals, will profit.

Given the scope of H.R. 1908, it is impossible to satisfy completely every interested party. But the committee has made many concessions to accommodate many individuals and many businesses.

□ 1230

The bill has not been rushed through the process. Over the past 3 years, our committee has conducted 10 hearings with more than 40 witnesses representing a broad range of interests and views.

The Patent Reform Act was amended at different stages of the process to address criticisms of the bill. Still, not all interests have endorsed the bill. I think their response is mostly resistance to change, any change.

This bill is not intended to favor the interests of one group over another. It does correct glaring inequities that encourage individuals to be less inventive and more litigious.

Supporters of the bill run the educational, consumer and business spectrum. The Business Software Alliance, the Information Technology Industry Council, the American Association of Universities, the American Bankers Association, the Consumer Federation of America, the Computer and Communications Industry Association, and the Financial Services Roundtable, again, they all endorse this bill.

Article I, section 8, as the chairman mentioned a while ago, of the Constitution empowers Congress, "to promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

The foresight of the founders, in creating an intellectual property system, demonstrates their understanding of how patent rights ultimately benefit the American people. Nor was the value of patents lost when one of our greatest Presidents, Abraham Lincoln, himself a patent owner, Lincoln described the patent system as adding "the fuel of interest to the fire of genius."

Few issues are as important to the economic strength of the United States as our ability to create and protect intellectual property. American IP industries account for over half of all U.S. exports, represent 40 percent of the

country's economic growth, and employ 18 million Americans. A recent study valued U.S. intellectual property at \$5 trillion, or about half of the U.S. gross domestic product.

The Patent Reform Act represents a major improvement to our patent system that will benefit Americans for years to come.

Madam Chairman, this bill has been a bipartisan effort. We would not be here now without the steady hand and gentle suggestions made by our chairman, Mr. CONYERS.

I also want to acknowledge the indispensable contributions of Congressman HOWARD BERMAN and Congressman HOWARD COBLE, among others. All three of us have been chairmen of the Intellectual Property Subcommittee over the past number of years, and we have worked together on developing this bill. But it is Mr. BERMAN's good fortune and a testament to his legislative ability that we are on the House floor today, and I congratulate him for that achievement.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, part of the Smith-Berman-Coble trio is the chairman now of the Courts, Intellectual Property and Internet Subcommittee. His indefatigable commitment to patent reform is now well known by all of the House, and I'm pleased to yield 2½ minutes to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Madam Chairman, first I have to say that we wouldn't be here, not only for his substantive contributions to this legislation, but because of his suggestions about the approach we should take, whether it was in full committee or as we move towards the floor in terms of working out problems that existed, and that's Chairman CONYERS. He played a critical role in getting us to this point.

LAMAR SMITH, HOWARD COBLE, RICK BOUCHER, who I started this with, DARRELL ISSA, ZOE LOFGREN, ADAM SCHIFF, BOB GOODLATTE, a number of people played key roles in all this. I don't have too much time. The staff, on an issue like this, was indispensable; they made incredible contributions. This is really complicated stuff. Perry Apfelbaum who demonstrated great leadership and guidance on many issues, George Elliott, a detailee from the Patent Office who is a great resource, Karl Manheim, who decided to spend his sabbatical helping on patent reform, Eric Gorduna who spent his summer working on the committee report, countless other staff, and of course my Chief Counsel Shanna Winters.

But the question is why, why are we doing this? And here are the things we are told by groups like the National Academy of Sciences and so many other organizations that are tremendously respected for their understanding of science and of our economy:

One, there are serious problems in the patent system;

Two, many poor-quality patents have been issued, which cheapen the value of patents generally;

Three, there have been a variety of abuses in patent litigation rules that have taken valuable resources away from research and innovation;

Four, U.S.-based businesses are disadvantaged because our patent laws aren't harmonized with the rest of the world.

Many organizations, many groups have argued for these reforms.

A quick statement about support. Every major consumer group in this country has endorsed this legislation. There is tremendous support in the financial services sector, in the high technology sector. The universities have now, University of California, which is one of the critical magnets of research and development, have supported passage of this legislation through the House. The American Association of Universities has supported moving the bill forward.

And one last comment. There is one very controversial issue, aside from the ones addressed by the amendments that we have seen that are not fully dealt with, and that particularly relates to the issue of damages and the apportionment of damages. It is our commitment, my commitment, the chairman's commitment, Mr. SMITH's commitment, Mr. COBLE's commitment, to work with people who are concerned about that language to reach an appropriate middle ground that reforms the way damages are calculated between now and the conference committee and when this comes back to deal with that controversy.

I urge strong support for this bill so we can make this historic effort, first in 60 years, move forward to ultimate enactment.

I include short list of the range of groups that support this bill.

The Business Software Association, The Financial Services Roundtable, Small Business & Entrepreneurship Council, TechNet, Consumer Federation of America, Consumer Union, Electronic Frontier Foundation, Knowledge Ecology International, Public Knowledge, United States Public Interest Research Group, American Corn Growers Association, American Agricultural Movement, Federation of Southern Cooperatives, National Family Farm Coalition, National Farmers Organization, Rural Coalition, Securities Industry and Financial Markets Association, Computer and Communications Industry Association, Computing Technology Industry Association, Illinois IT Association, Information Technology Association of America, Information Technology Industry Council, Software & Information Industry Association, St. Jude Medical, Massachusetts Technology Leadership Council, Inc., Hampton Roads Technology Council, Northern Virginia Technology Council.

Mr. SMITH of Texas. Madam Chairman, I yield 5 minutes to my friend from North Carolina (Mr. COBLE), the ranking member and former chairman of the Intellectual Property Subcommittee.

Mr. COBLE. I thank the gentleman from Texas for yielding.

Madam Chairman, I recall several years ago, when we were discussing proposed patent legislation before a crowded hearing room, and I remember one Member saying to the crowd, he said, I have friends for this bill, I have friends opposed to this bill, and I want to make it clear, he said to that group, I'm for my friends. Well, we don't do it quite that easily; easier said than done. But as has been mentioned before, the distinguished gentleman from California (Mr. BERMAN) and I, along with the gentleman from Texas and the gentleman from Michigan, we've plowed this field before. And I've heard many argue that H.R. 1908 undermines everything that we accomplished in 1999 when the American Inventors Protection Act was implemented.

Madam Chairman, this is simply inaccurate. Mr. BERMAN and I shepherded that legislation which, among other things, created patent reexamination, banned deceptive practices, clarified the term for patents, required that patents be published before they're granted, and made the Patent Office independent within the Department of Commerce, among other things.

As our domestic economy becomes increasingly dependent on the global economy, Madam Chairman, so, too, does our patent system.

Other challenges stem from the marketplace. As our domestic economy becomes increasingly dependent on the global economy, so does the patent system. In many international markets, patent protection is one certainty on which American manufacturers can rely when they are trying to compete internationally.

H.R. 1908 addresses these challenges in several respects. First, the bill implements a first-to-file patent system, which is in line with other countries and will streamline the patent review and issuance process.

Other provisions in the bill dealing with willful infringement, post-grant opposition, publication, inequitable conduct and best mode will also help improve patent issuance and patent quality.

By improving patent quality, patent disputes and litigation should be reduced, and patent examiners' ability to perform the daunting task of searching scores of records and files should improve greatly.

Unfortunately, H.R. 1908 has not enjoyed universal support. Several key stakeholders have voiced concerns and objections which cannot be overlooked. And I understand that many, if not all, of the changes in the manager's amendment will address many concerns, but I am still troubled that another key coalition may not endorse H.R. 1908 at the end of today's debate. Many of these companies in this coalition, unfortunately for me, are either located in or near my district, and I'm concerned that anything in H.R. 1908 would adversely affect them.

So while I urge my colleagues to support H.R. 1908, I do not mean to cast

any aspersions upon those who may very well have meritorious concern, particularly dealing with applicant responsibility and how any change to the rule for calculating infringement damages could impact the value of their patents.

That being said, Madam Chairman, I know that Chairman BERMAN, the distinguished gentleman from California, the distinguished gentleman from Texas, the Ranking Member SMITH, have accepted all criticisms in good faith and have worked diligently to forge some sort of compromise where it has been possible. I hope that after today we will continue to pursue compromise so that with some good fortune we may convince all stakeholders to support what I believe is needed patent reform.

And I say to the gentleman from Texas, I thank you for having yielded.

Mr. CONYERS. Madam Chairman, I am pleased to yield to the gentleman from Virginia (Mr. BOUCHER). He is the last Member on this side that's getting 3 minutes.

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. I thank the gentleman from Michigan for yielding this time. I also want to commend the gentleman from Michigan for the very fine and persistent work that he has performed in bringing this measure to the House floor today.

Mr. BERMAN and I introduced an earlier version of this patent reform fully 5 years ago. And building on that early effort, Mr. BERMAN has worked tirelessly to build broad support for the patent reform, support externally and bipartisan support in this Chamber, to fine-tune the bill's provisions and to obtain Judiciary Committee approval of the measure earlier this year. That is truly an impressive accomplishment.

There is an urgent need to improve the patent system. Patent examiners are burdened with many applications and are encouraged to move quickly on each one of them. And as they do their work, they are isolated from an important source of highly relevant information. That information source is the knowledge that individuals may have that the work that is the subject of the patent application may, in fact, not be original, that someone else, in fact, may have invented that particular object, and that that object has been in use prior to the time that the application was filed. That information we call "prior art." The existing patent process contains no avenue for third parties who may possess information about prior art to submit that to the patent examiner while the application is being examined. Our reform bill corrects that flaw, and in so doing, will broadly operate to improve patent quality.

Also in aid of patent quality is the provision which significantly strengthens the post-grant interparty's reexamination process through which the Pat-

ent Office can be required to take a more careful look at the patent and the application that accompanies it before that patent is issued in final form by the Patent Office.

Our goal with this provision is to ensure that before a patent is issued, parties who contest its validity will have a full and complete opportunity to do so within the confines of the Patent Office itself. That should prove to be a very effective and less costly alternative than litigating the validity of the patent in the court process.

Across its range of provisions, the reform measure before us makes long-needed changes that will improve the quality of patents, adjust aspects of the litigation process to the benefit of patent holders and those who license for use patented items.

The bill before us contains a provision which I offered as an amendment in committee in partnership with my Virginia colleague, Mr. GOODLATTE. Our provision prohibits prospectively the award of patents for tax planning methods.

Madam Chairman, I strongly encourage that the bill, with that amendment, be approved.

I thank the gentleman from Michigan for yielding this time to me, and I commend him on his effective work, which brings the patent reform measure to the House floor today.

Mr. BERMAN and I introduced an earlier version of this reform 5 years ago.

Building on that early effort Mr. BERMAN has worked tirelessly to build broad support for patent reform, to fine tune the bills provisions, and to obtain Judiciary Committee approval of this measure. It is a truly impressive achievement.

There is an urgent need to improve the patent system.

Patent examiners are burdened with many applications and are encouraged to conclude each one quickly.

And as they do that work they are isolated from an important source of highly relevant information.

That information source is the knowledge individuals may have, that the subject of the patent application is not original, that in fact, the object may have previously been invented by someone else. We call that prior art.

And the existing patent process contains no avenue for third parties to submit evidence of prior art to the patent examiner.

Our reform bill correct that flaw, and in so doing will help to improve overall patent quality.

Also in aid of patent quality is the provision which significantly threatens the past grant inter partes reexamination process through which the Patent Office can be required to take a more careful look at the proposed patent prior to its final issuance.

Our goal with this provision is to assure that before a patent is issued, parties who contest its validity will have a full and complete opportunity to make their case.

A meaningful Inter Pates proceeding can also be an expeditious, less costly alternative to litigating the validity of the patent in the courts.

Across its range of provisions, the reform measure before us makes long-needed

changes, which will improve the quality of patents and adjust aspects of the litigation process to the mutual benefit of patent holders and those who license for use patented items.

The bill before us contains a provision which I offered as an amendment in committee along with my Virginia colleague, Mr. GOODLATTE.

Our provisions prohibits prospectively the award of patent for tax planning methods.

Approximately 60 such patents have been issued and at least 85 more are pending at the Patent Office.

These patents limit the ability of taxpayers, and the tax professionals they employ, to read the tax laws and find the most efficient means of lessening or avoiding tax liability (contrary to said public policy).

If someone else has previously read the tax law, found the same means of reducing tax liability and received a patent for it, that person is entitled to a royalty if anyone else tries to reduce his taxes by the same means.

I frankly think that is outrageous. No one should have to pay a royalty to pay their taxes. No one should have sole ownership of how taxes are paid.

Such a barrier to the ability of every American to find creative lawful ways to lessen tax liability is contrary to said public policy.

Our amendment, now a part of the bill before us, will bar the future award of such patents, and I would encourage the Patent Office to reexamine those that have been issued to date.

I also want to thank the bipartisan leadership of the Ways and Means Committee for expressing support for our provision on tax planning strategies.

Mr. Chairman, I urge approval of the bill.

Mr. SMITH of Texas. Madam Chair, I yield a full 4 minutes to my friend from California (Mr. ROHRABACHER) on the condition, of course, that he is not too critical of this legislation and that he is dispassionate in his remarks.

Mr. ROHRABACHER. I thank my friend from Texas.

I rise in strong opposition to H.R. 1908.

The proponents suggest that it is the most fundamental and comprehensive change of American patent law in over a half century. Well, that's true, and that's why it should be defeated, because the changes are almost all aimed at undermining the technological creators and strengthening the hand of foreign and domestic thieves and scavengers who would exploit America's most creative minds and use our technology against us. It would be a disaster for individual inventors, with an impressive coalition strongly opposing this legislation: universities, labor unions, biotech industries, pharmaceuticals, nanotech, small business, traditional manufacturers, electronics and computer engineers, as well, of course, the patent examiners themselves who are telling us this will have a horrible impact on our patent system.

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They are all begging us to vote "no." This so-called reform will make them vulnerable to theft by foreign and domestic technology thieves. Our most

cutting-edge technology will be available to our enemies and our competitors. That is why I call this the Steal American Technologies Act. The billionaires in the electronics industry and the financial industries who are supporting H.R. 1908, many of them already have built their factories in China, would do away with the patent system altogether if they could. They are so powerful and arrogant that they have set out to fundamentally alter our traditional technology protection laws, laws that have served America well for over 200 years.

Yes, this is an issue vital to the well-being of the American people, to our standard of living; yet we find ourselves with a severely limited debate. There is only 1 hour of debate. Those of us who are opposing this legislation haven't even been given the right, which is traditional in this body, to control our own time. Yes, the way we are handling this debate is a disgrace. There will be 12 minutes available for those of us who oppose a bill that they claim is so important for the future of our country.

What do we know about this bill? It is a horror story for American inventors and a windfall for foreign and domestic thieves. We don't even know what is in the bill. The manager's amendment has been changed even after the committee did its business. So it wasn't even fully debated in the committee and much less fully debated at the subcommittee level. No, what we are doing is a power play here. That is what we are witnessing. The opposition doesn't even get the chance to argue our case adequately before this body or before the American people. Our inventors and our innovators are begging us not to pass this legislation. Foreign and domestic technology thieves are licking their chops. Let's not let the big guys beat down and smash the little guys, which is what the purpose of this legislation is.

There are problems in the Patent Office, that is true, that can be fixed without having to fundamentally alter the principles that are the basis of our patent system, which is what this legislation does. This legislation, in the name of reform, is being used as a cover to basically destroy the patent system that has served us so well. In the long term, it will destroy American competitiveness and the standard of living of our working people. That is what is at stake here. Overseas, the people in India, China, Japan and Korea are waiting. We have quotes from newspapers suggesting that as soon as this bill passes, they will have a greater ability to take American technology even before a patent is granted and put it into commercial use against us.

This is a shameful, shameful proposal. The American people have a right to know. We are watching out for their interests. I don't care what the billionaires in the electronics industry and the financial industry say. We

should have more debate on this. We should have had 2 or 3 hours of debate on this if it is as important as they say. Instead, we have been muzzled, and it is a power grab. Vote against H.R. 1908.

Mr. CONYERS. Madam Chairman, I yield 10 seconds to my colleague from California (Mr. BERMAN).

Mr. BERMAN. I thank the gentleman for yielding.

Madam Chairman, just because the gentleman says it is so, doesn't mean it is so. I have letters from the AFL-CIO, the university community, and the major centers of innovation and research in this country that directly contradict his assertion that they are opposed to the passage of this bill. The Members of this body should understand that.

Mr. CONYERS. Madam Chairman, I am pleased now to yield 2½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Right before our break, we passed and sent to the President comprehensive innovation legislation that allowed America to maintain its lead in the area of technology and investment in the R&D of this country. With this legislation, the patent reform, we are taking the second step in assuring that America, American companies and America's innovation, maintains its leadership in the world and the companies that are producing the jobs and well-paying manufacturing jobs here in this country.

I have only a small assortment of letters from the CEO and managements of these companies: Mr. Chambers from Cisco, Safra Catz from Oracle, the president and chief financial officer, the CEOs from Palm and the Micron company, and other companies.

Just to read the sense of what they are saying: "As a company with several thousand patents, Cisco believes deeply in strong protection for intellectual property. Unfortunately, as you found during the hearing process, there are clear signs the current patent system is not functioning properly."

This is from Mr. Chambers, the chairman and CEO of Cisco: These reforms you are debating today, this legislation will allow us to continue to innovate and help maintain our Nation's position as the world's technology leader.

This is essential legislation for American companies, America's innovation, and its ability to produce jobs for the future. Major CEOs from major companies that have maintained and also built America's leadership in the high-tech field all support this legislation, in addition to leaders of every major consumer group. So it is both good for consumers and good for business and good for the companies that are producing the jobs here in this country.

I would like to submit into the RECORD these letters from just an assortment of the companies that support this legislation because of what we are doing to maintain America's

leadership in the production of new jobs, new technology, and new companies here in the country, formation of new capital, venture capital funding, et cetera. This, though, is the most important step to ensure that when people invent things and design patents that they have the notion and the integrity that those patents and their ideas are going to be protected.

Today we are taking a major step, forward as the CEOs have said in their own letters, in maintaining America's leadership in the production of not only new companies but the most innovative jobs and high-paying jobs that are the future of this country. I want to commend the leadership for producing this legislation and having it on the floor today for a vote.

CISCO SYSTEMS, INC.,
San Jose, CA, September 6, 2007.

Hon. JOHN CONYERS, JR.,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

Hon. HOWARD L. BERMAN,
Chairman, Committee on the Judiciary, Subcommittee on Courts, the Internet and Intellectual Property, Rayburn House Office Building, Washington, DC.

Hon. LAMAR S. SMITH,
Ranking Member, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

Hon. HOWARD COBLE,
Ranking Member, Committee on the Judiciary, Subcommittee on Courts, the Internet and Intellectual Property, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN CONYERS, RANKING MEMBER SMITH, CHAIRMAN BERMAN, AND RANKING MEMBER COBLE: I am writing to applaud your tireless efforts to pass H.R. 1908, the Patent Reform Act of 2007. As the House prepares to debate this bill, I want to reiterate to you Cisco's strong support for the legislation.

In bringing the issue of patent reform to the floor, the House of Representatives and the sponsors of H.R. 1908, have demonstrated a genuine commitment to promoting innovation. As a company with several thousand patents, Cisco believes deeply in strong protection for intellectual property. Unfortunately, as you found during the hearing process, there are clear signs the current patent system is not functioning properly. H.R. 1908 provides a series of needed reforms, which will modernize and restore balance to the patent system. These reforms will allow us to continue to innovate and help maintain our nation's position as the world's technology leader.

Passage of comprehensive patent reform is Cisco's number one legislative priority for 2007. We have made this issue a priority because we believe a modernized and balanced patent system will promote innovation throughout our economy and thus improve our nation's ability to compete in the global economy.

I believe the time has come for patent reform legislation, and I deeply appreciate your commitment to passing H.R. 1908.

Kind Regards,

JOHN CHAMBERS,
Chairman and CEO, Cisco.

ORACLE,

Washington DC, September 6, 2007.

Hon. NANCY PELOSI,
*Speaker, House of Representatives, Washington,
 DC.*

Hon. JOHN BOEHNER,
*Republican Leader, House of Representatives,
 Washington, DC.*

DEAR MADAM SPEAKER AND REPUBLICAN LEADER BOEHNER: I am so pleased to see that the House of Representatives will soon begin debate and vote on H.R. 1908, the Patent Reform Act. I can't emphasize enough the significance of this upcoming vote—it is perhaps the single most important vote for our innovation-driven industry in the last few years.

Our economy historically has been at the forefront of each new wave of innovation for one simple reason: our intellectual property laws, starting with our nation's Constitution, reward innovation. However, today's U.S. patent system has not kept pace with the growth of highly complex information management systems—the cornerstone of an innovation wave that is truly global in scope. As a result, we have seen a significant increase in low quality patents, which has sparked a perverse form of patent litigation innovation. Some of our nation's most creative companies have been forced to spend tens of millions of dollars to defend themselves against frivolous lawsuits that extract settlements that are in the hundreds of millions of dollars.

This is not news to you and your colleagues. A bipartisan effort, led by Congressmen Howard Berman and Lamar Smith, has been underway for several years now, and after numerous public hearings and discussions with key stakeholders, a balanced blueprint for reform has been produced and approved by the House Judiciary Committee. In addition to long-sought reforms in patent quality, H.R. 1908 will bring certainty, fairness and equity to key stages of the patent litigation process, including determinations of venue, willful infringement and the calculation of damages.

In short, H.R. 1908 is designed to strengthen and bring our patent system back to basic principles: to reward innovation, and preserve our economy's creative and competitive leadership.

We at Oracle thank you and your colleagues for the tremendous work to advance this essential legislation, and we look forward to seeing H.R. 1908 become law in the 110th Congress.

Sincerely,

SAFRA CATZ,

President and Chief Financial Officer.

PALM INC.,

Sunnyvale, CA, September 5, 2007

Hon. HOWARD BERMAN,
*House of Representatives, Rayburn Building,
 Washington, DC.*

DEAR CONGRESSMAN BERMAN: On behalf of Palm, Inc., thank you for your work in bringing the Patent Reform Act of 2007 to the House floor for a vote this Friday, September 7, 2007.

This legislation is extremely important to Palm as well as other companies beyond the technology industry. By updating the current patent system, including changes that affect the litigation process, Palm will be able to continue to effectively innovate in ways that will benefit the consumer and the U.S. economy. We are proud to work with a diverse, multi-industry national coalition that has advanced this critical patent reform legislation over the past six years and we appreciate your leadership in providing a strong opportunity for passage.

I thank you for your time and commitment on this critical issue.

Sincerely,

EDWARD T. COLLIGAN,
Chief Executive Officer, Palm, Inc.

MICRON TECHNOLOGY, INC.,

Boise, ID, September 6, 2007.

Hon. NANCY PELOSI,
*Speaker, House of Representatives,
 Washington, DC.*

DEAR MADAM SPEAKER: As H.R. 1908 the Patent Reform Act of 2007, led by Chairman JOHN CONYERS, Ranking Member LAMAR SMITH, Representatives BERMAN and COBLE, is considered in the House of Representatives, I would like to take this opportunity to thank you and all the bill's supporters who have worked in a bipartisan fashion to help move this legislation forward.

Patent reform is a top legislative priority for the high-tech industry. Like many other supporters of this legislation, Micron Technology, Inc. is one of the world's top patent holders. Protecting our intellectual property is critical to our success. However, the U.S. patent system has not kept pace with the demands of rapidly evolving and complex technologies, and the global competitiveness of U.S. technology companies has suffered as a result. H.R. 1908 would balance many of the imbalances that currently plague our patent system. It would promote innovation, yet safeguard the rights of innovators, thereby restoring fairness to the patent system in our nation.

Thank you again for recognizing that now is the time to move forward on this important legislation.

Sincerely,

STEVEN R. APPLETON,

Chairman and CEO, Micron Technology, Inc.

AUTODESK, INC.,

San Rafael, CA, September 6, 2007.

Hon. NANCY PELOSI,
*Speaker of the House, House of Representatives,
 Washington, DC.*

DEAR MADAM SPEAKER: I want to thank you and your colleagues in the House leadership for scheduling H.R. 1908, The Patent Reform Act of 2007, for consideration this week on the floor of the House of Representatives. This legislation is my company's top legislative priority this year and is important to the innovation economy of the country. It has been thoughtfully drafted in a bipartisan manner to accommodate many diverse perspectives. I applaud the House for taking decisive action on this critical bill, and look forward to its passage and ultimate enactment into law.

Sincerely,

CARL BASS,

President & CEO, Autodesk, Inc.

KALIDO,

Burlington, MA, September 6, 2007.

Hon. NANCY PELOSI,
*Speaker of the House, House of Representatives,
 Washington, DC.*

Hon. STENY HOYER,
*Majority Leader, House of Representatives,
 Washington, DC.*

Hon. HOWARD BERMAN,
*Chairman, Subcommittee on Courts, the Internet
 and Intellectual Property, Committee on the
 Judiciary, House of Representatives, Wash-
 ington, DC.*

DEAR MADAM SPEAKER, MAJORITY LEADER HOYER, AND CHAIRMAN BERMAN: Thank you for bringing the Patent Reform Act of 2007 to the House floor for a vote this Friday, September 7, 2007.

This legislation is extremely important to the livelihood of my company as well as companies beyond the technology industry. By updating the current patent system, in-

cluding changes that affect the litigation process, Kalido will be able to continue to innovate in ways that will benefit the consumer and the U.S. economy.

As a software company, our business is our intellectual property, and protecting software companies also protects the large multinational firms that benefit from our innovation. It is extremely important not only to protect our intellectual capital, but to motivate our investors, employees, and ultimately, our customers.

Understanding the challenges in advancing this critical patent reform legislation over the past six years, we appreciate your leadership for providing a strong opportunity for passage.

I thank you for your time and commitment on this issue.

Sincerely,

WILLIAM M. HEWITT,

President & CEO.

AUTHORIA, INC.,

Waltham, MA, September 6, 2007.

Hon. NANCY PELOSI,
*Speaker of the House, House of Representatives,
 Washington, DC.*

SPEAKER PELOSI: I look forward to seeing you again at TechNet Day this Spring.

Thank you for bringing the Patent Reform Act of 2007 to the House floor for a vote this Friday.

This legislation is extremely important to the livelihood of my company as well as tens of thousands of other high-growth companies.

By updating the current patent system, including changes that affect the litigation process, Authoria will be able to continue to innovate in ways that will benefit the consumer and the U.S. economy.

Understanding the challenges in advancing this critical patent reform legislation over the past six years, we appreciate your leadership for providing a strong opportunity for passage.

I thank you for your time and commitment on this issue.

Sincerely,

TOD LOOFBOURROW,

President, Founder & CEO Authoria, Inc.

Mr. SMITH of Texas. Madam Chairman, I yield 4 minutes to my friend from Virginia (Mr. GOODLATTE), the ranking member of the Agriculture Committee, the chairman of the House High Tech Caucus, and a senior member of the Judiciary Committee.

Mr. GOODLATTE. I thank the gentleman, and I thank him for his leadership on the Judiciary Committee and for years of leadership on this legislation, along with HOWARD BERMAN, the chairman of the Intellectual Property Subcommittee, and their staffs for this legislation.

Madam Chairman, article I, section 8 of our Constitution lays the framework for our Nation's patent laws. It grants Congress the power to award inventors, for limited periods of time, exclusive rights to their inventions. The Framers had the incredible foresight to realize that this type of incentive was crucial to ensure that America would become the world's leader in innovation and creativity.

These incentives are just as important today as they were at the founding of our country. It is only right that as more and more inventions with increasing complexity emerge, we should examine our Nation's patent laws to

ensure that they still work efficiently and that they still encourage, and not discourage, innovation, so America will remain the world's leader in innovation.

The solution involves both ensuring that quality patents are issued in the first place and ensuring that we take a good hard look at patent litigation and enforcement laws to make sure that they do not contain loopholes for opportunists with invalid claims to exploit. H.R. 1908 addresses both of these concerns.

First, the bill helps ensure that quality patents are being issued by the U.S. Patent and Trademark Office. The PTO, like any other large government agency, makes mistakes. H.R. 1908 creates a post-grant opposition procedure to allow the private sector to challenge a patent just after it is approved to provide an additional check on the issuance of bogus patents. Better quality patents mean more certainty and less litigation for patent holders and businesses.

In addition, H.R. 1908 contains important litigation reforms to rein in abusive lawsuits and forum shopping so that aggressive trial lawyers do not make patent litigation their next gold mine like they did for asbestos lawsuits, class action lawsuits and the like. Specifically, the bill tightens the venue provisions in the current patent law to prevent forum shopping.

H.R. 1908 also prohibits excessive damage awards. Believe it or not, there is no current requirement that damage awards in patent cases be limited to the value the patent added to the overall product. The courts have created a virtual free-for-all environment in this area. H.R. 1908 contains provisions to help ensure that damages are proportional to the value the invention added to the product, which will inject certainty into this area and allow businesses to devote their resources to R&D and innovating.

The bill also creates clearer standards for "willful infringement" by requiring greater specificity in notice letters alleging infringement of patent claims and requiring courts to include in the record more information about how they calculate damage awards.

Furthermore, the bill contains an important amendment that Congressman BOUCHER and I added during the Judiciary Committee markup to prevent individuals and companies from filing patents to protect tax strategies. Since 1998, when the Federal Circuit Court of Appeals held that business methods were patentable, 51 tax strategy patents have been granted covering such topics as estate and gift tax strategies, pension plans, charitable giving and the like. Over 80 additional tax strategy patents are pending before the USPTO.

When one individual or business is given the exclusive right to a particular method of complying with the Tax Code, it increases the cost and complexity for every other citizen or

tax preparer to comply with the Tax Code. No one should have to pay royalties to file their taxes. H.R. 1908 renders these tax strategy patents unpatentable so that citizens can be free to comply with the Tax Code in the most efficient manner without asking permission or paying a royalty.

Our patent laws were written over 50 years ago and did not contemplate our modern economy where many products involve hundreds and even thousands of patented inventions. H.R. 1908 provides a much-needed update to these laws, and I urge my colleagues to support this litigation.

Mr. CONYERS. Madam Chairman, I am pleased to add to that trio in the Judiciary that has worked for so long on patent reform. Her name is ZOE LOFGREN, and she is a subcommittee Chair; but she stayed with patent reform. I yield her 2½ minutes.

Ms. ZOE LOFGREN of California. Thank you, Mr. CONYERS, Mr. BERMAN, Mr. SMITH for your hard work.

I rise in support of the bill which brings much-needed reform to our system. We have worked hard really over the past half decade to come to this floor today with this legislation.

I want to talk about one issue, and that is venue. Due to a flawed Federal Court decision in 1990, B.E. Holdings, patent trolls have been able to file cases more or less wherever they choose in the United States. And that decision has led to forum shopping as plaintiffs filed in jurisdictions where they knew they stood a better chance of winning, and where they would get more money if they did win.

For example, filings in eastern Texas went from 32 cases a year 4 years ago to over 234 cases last year with a projected 8 percent increase this year. Patent holders win 27 percent more often there, and the awards are much bigger. The presiding judge himself describes the district as a "plaintiff-oriented district." It has led to the formation of entities that exist solely to bring patent cases. For example, the Zodiac Conglomerate is formed of several smaller companies. None of the companies create any technology. They don't produce any products. All of those companies are incorporated in either Texas or Delaware. They exist for one purpose only, to bring patent cases. So far the Zodiac Conglomerate has sued 357 different companies, mostly in the Eastern District of Texas.

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Manufacturing venue leads to overly aggressive litigation behavior, which deters legitimate innovation. This manager's amendment is going to correct the problem. The bill will allow cases to be filed where the defendant is located or has committed acts relevant to the patent dispute.

We give the freest rules to independent inventors and to individual inventors and universities, noting their special role in this system. Corporate plaintiffs can only bring cases where

the facilities are located if they have engaged in activities relevant to the patent dispute.

In sum, the bill restores fairness and clarity to patent litigation by removing the most glaring instances of forum shopping by patent trolls.

I represent Silicon Valley, which has a diversity of high tech. Biotech, large companies, small companies, universities, small inventors, pharmaceutical companies, we have got them all, including small inventors working out of a garage. A balanced approach to innovation is essential to all of these entities. H.R. 1908 provides that balance. We need to pass this bill today. I urge my colleagues to do so.

Mr. SMITH of Texas. I yield 2 minutes to my friend, the gentleman from Ohio (Mr. CHABOT), the ranking member of the Small Business Committee, ranking member of the Anti-Trust Task Force, and a senior member of the Judiciary Committee.

Mr. CHABOT. Mr. Chairman, I rise in reluctant opposition to H.R. 1908, the Patent Reform Act, that we are considering here now. While this bill has been improved since its introduction back in April, the scheduling of this bill for consideration today makes one question whether reform really is the majority's objective.

Why else would we push a bill through on a Friday afternoon under a structured rule that will only allow a few selected amendments even to be considered? In fact, since this bill was reported from the Judiciary Committee in July, several of us, as well as the stakeholders, have asked the leadership to slow this bill down to ensure that we have a true reform bill that is fair and equitable to all who use the patent system.

I believe the bill in its current form, and even if the manager's amendment is adopted, fails to strengthen the system Congress created to foster and protect innovation. In fact, more than 100 companies, unions, universities, coalitions and other organizations have voiced their concerns with this bill.

These entities, users of the patent system, believe that the changes proposed by this act and the amendments we are considering today will be harmful to their respective businesses, will be bad for the economy, and could threaten our status as the number one patent system in the world. If that is even possible, why would we rush to pass a bill that could jeopardize the very industries and employees that have made this Nation what it is today?

Innovation is the heart and soul of this country. What has made the U.S. the strongest patent system in the world is its ability to adapt to different business models and innovations, protecting those who invent, while at the same time encouraging public dissemination.

Of course, our patent system is not perfect. The Small Business Committee that I happen to be the ranking member of held a hearing on March 29th,

2007, examining how small businesses use the patent system and the impact that this patent reform would have on them. The most revealing aspect of the hearing was the consensus among members and panelists that Congress should be very careful in making significant change to the system.

Mr. Chairman, I urge my colleagues to oppose this.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from North Carolina (Mr. WATT), who has worked continuously on this bill to improve it.

Mr. WATT. I thank the gentleman for yielding.

Mr. Chairman, when you practice law for 22 years, as I have before coming to Congress, and served on the Judiciary Committee for 15 years and never even in all that time dealt with patents, you are tempted to think of patent lawyers and the law of patents as a bunch of technocrats and elevate constitutional considerations and criminal law and other civil rights matters to a higher position. It has been an eye-opening experience for me, the first time to serve on this subcommittee and to see how important patent law is to stimulating, encouraging innovation, and to see how difficult and precise the law needs to be and how far behind the patent law has become in adapting to changes.

One of the changes that I think hasn't gotten much attention in this bill that I was surprised at as a member of the Financial Services Committee that has so many regulators of the various parts of our financial system which can promulgate rules, it seemed to me when I found out that the Patent and Trade Office really didn't have the authority to promulgate any meaningful rules, that that was contributing to the problem, because innovations and ideas and inventions and communications are traveling so fast that the law can't always keep up with them. It is in that context that meaningful regulation is important. So I wanted to point to that particular aspect.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my friend, the gentleman from Illinois (Mr. MANZULLO), the former chairman of the Small Business Committee.

Mr. MANZULLO. Mr. Chairman, if we had to patent the way Congress is considering this bill, no one would claim to be its inventor. This is a disgrace. One of the most important bills to come before this Nation in 60 years concerning manufacturing and patentability of articles and processes is so limited that the Democrats have given just 4 minutes of their 30 to two people on the other side. They owe them an apology. They owe them at least another hour of debate. The American people deserve a lot more debate than that.

An amendment was filed at 2:46 yesterday before the Rules Committee, the manager's amendment. One of the groups that contacted us representing

pharmacies and labor unions and Caterpillar and all kinds of manufacturing organizations got a hold of it, finally had to analyze it overnight because of the complexity of the issues, and said, my gosh, this could destroy the system of patent law and protection of patent holders in this country.

What we are asking for is the opportunity to be able to explain it. Members of Congress should not be placed in the position of choosing between innovation.

Let me give you an example. Caterpillar is on one side, in Peoria, Illinois, PHIL HARE's district. Hundreds of thousands of suppliers across the country, including the Midwest. Research in Motion, the maker of the BlackBerry, is on the other side of the issue, in favor of it. But inside of the BlackBerry is this motherboard. It is magnesium. It is made by Chicago White Metals. They have the finest processes for magnesium hot-chamber diecasting, a company that is the only diecasting company in the country that is rated ISO 14001 for its higher environmental standards.

You have to get on the inside of these machines to understand the importance of this law. You have to be able to take every single word that is added at the last minute and be able to study it to see the impact upon American innovation. That is what this debate is about. It is simply asking for more time.

The first thing we learn as Members of Congress is do no harm. Why should we place ourselves in the position of choosing winners and losers in something as important as patent law, with the excuse that we have to harmonize and we have to adopt Asian and European standards of patent law? What is wrong with the American system? We are the innovators, we are the ones with the great minds. It is our system that is placed, in effect, in the entire world, all the products and the processes and the ideas that have made us free.

I would therefore ask the Members, even if you lean towards this bill, to vote against it as a matter of free speech principle. The American people are entitled to more debate, because they need to know more about this bill.

Mr. CONYERS. Mr. Chairman, I yield myself 10 seconds.

I just want to tell the previous speaker that we have had to accommodate about 20 different parts of our American industry and society, and, of course, everybody is not equally happy. Apparently you are one of those.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. JOHNSON).

(Mr. JOHNSON of Georgia asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON of Georgia. I thank the chairman.

Mr. Chairman, I rise in support of H.R. 1908, the Patent Reform Act of 2007. I want to commend the Chair of

the Judiciary Committee, JOHN CONYERS, as well as all the members of the Subcommittee on Courts, the Internet and Intellectual Property, especially Chairman HOWARD BERMAN, and also Ranking Member HOWARD COBLE, for their hard work in bringing this important piece of legislation to the floor. It is a bipartisan effort.

Although I am a new member to this subcommittee, I am well aware that Congress has been debating patent reform for several years. This area of the law has not been updated for 55 years, yet patents touch upon so many different sectors, from agriculture to biotechnology to manufacturing and computer technology.

In order to continue to stimulate growth and reward inventors in these various sectors, we in Congress are charged with finding the right balances between protecting inventions and stimulating innovation. Our Founding Fathers realized it was so important to protect inventions and promote innovation that they wrote that protection into our Constitution in article I, section 8.

For more than half a century, the United States has led the world in research and innovation, partly due to the fact that the U.S. rewards its inventors and protects their ideas. But since the last update to our system over 55 years ago, technology has rapidly changed and has revolutionized our economy. In order to keep up with these changes, Congress has stepped forward to update this important body of law.

This bill makes several important changes, including moving from a first-to-invent to a first-to-file system. It places certain limitations on willful infringement, it creates a new process of post-grant review, and it addresses changes of venue to address the issue of forum shopping.

This bill is not perfect, but I ask that the Members of this body pass this bill.

Now this bill is not perfect, and Members as well as many representatives from various industries have come to my office with their concerns about the damages section of HR 1908.

During the House Judiciary Committee markup, Congressman FEENEY and I were able to craft an amendment that I believe struck a balance, giving juries the ability to come to a deliberate decision while giving them the flexibility within the law to assess damages.

Our intent is also included in the CONGRESSIONAL RECORD; the case law used in assessing damages, also known as the fifteen Georgia Pacific factors, may still be considered when courts are assessing damages. We have diligently tried to meet the concerns of a wide spectrum of industries and while this bill is not perfect, it is a bipartisan effort to update the patent system.

Mr. Chairman, it is my hope that although there are continued concerns, we can work on them through the conference committee process in a continued bi-partisan fashion and we can all come to a compromise.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to my friend and colleague, the gentleman from Texas (Mr.

GOHMERT), the deputy ranking member of the Crime Subcommittee of the Judiciary Committee.

(Mr. GOHMERT asked and was given permission to revise and extend his remarks.)

Mr. GOHMERT. I thank the ranking member.

Mr. Chairman, there are some things that need repair in the U.S. patent system, but something about this bill kept troubling me. When I read the provision regarding the transfer of venue, I began to realize something was very wrong. The provision said the court may transfer an action only to a district where "the defendant had substantial evidence or witnesses."

I could not believe it. That provision did not even allow a judge to consider fairness or justice or caseloads or time delays or whether the plaintiff was a small entrepreneur with only a few patents who could be led to bankruptcy by being forced to file in a court where it had a 5-year delay. I would have been absolutely staggered during my years as a judge to see a venue provision like this. Many agreed and realized that was grossly overreaching and proponents of the bill immediately recognized that and were willing to work.

But patent cases increased in the Eastern District of Texas when companies like Texas Instruments realized they could get a trial within 18 months in front of some of the best judges in the country and get fairness. Initially, there were more plaintiff victories, but, as I understand, the last year or so it has been 50-50, which there is nowhere in the country comparable to that.

I began to realize something was very wrong and one-sided when something like that could get into a bill, and especially the manager's amendment, without being noticed. And who would want something like that? Then you realize, it is big companies who do not want others to have the opportunities that they did.

So that made me look again at the damage provision that was being completely changed. I realized to whom that was helping and whom that would destroy, and I realized that the language for that must have come from the same type source who did not want anything but a small cookie cutter or mold to consider damages when, for years now, there have been many more factors that needed to be considered. You have drug cases. You have objects that are patented. You have concepts.

The Comprehensive Patent Reform bill being pushed at this time has some good features.

There are some things that need repair in the U.S. patent system. But, something about this bill kept troubling me.

When I read the provision regarding the transfer of venue, I began to realize something was very wrong. The provision said that the court may transfer an action only to a district where "the defendant has substantial evidence or witnesses." That provision did not even allow the judge to consider fairness, or

justice, or case loads and time delays of other courts or whether the plaintiff was a small entrepreneur with only a few patents who will be destroyed if the case is transferred to a court with a 5-year wait to trial. In my days as a trial judge, I would have been absolutely staggered to see a venue rule so incredibly one-sided. It was grossly overreaching and proponents of the bill immediately recognized that when it was pointed out, but they just had not noticed that. They then agreed to changes that prevent the language from being quite so egregious.

As our colleague from the high tech area of California pointed out moments ago, there have been patent cases filed in the Eastern District of Texas in my district. That began happening when Texas Instruments, not some small patent troll, along with others who had patents being infringed, could not get a prompt trial elsewhere, realized the Eastern District of Texas had some of the best judicial minds who were rarely ever reversed, and they could receive a trial within 2 years instead of 5. So lawsuits were filed there. As far as the rates of victories by plaintiffs to defendants, she cited old data and the new data shows that the district being excoriated in the past year probably has had more equality of verdicts than anywhere else in the country, which means the issue is a red herring for something else to get passed that is potentially deadly to invention.

I agreed we needed to do something about patent trolls who buy patents so they can sue to try to hold up a company for cash. I agreed that's not right. I was willing to help fix it. But after proposing solutions to that which were met by a desire to use that issue only as an excuse to make comprehensive, devastating changes to two centuries of patent law, I realized something inappropriate was at work here.

I began to realize something was very wrong for a terribly one-sided provision to make its way into the official bill being considered as a Manager's Amendment at the full Judiciary Committee. I began to think about who must have written or at least pushed to get that type of totally one-sided provision in there. It was not anyone interested in fairness. It was someone interested in really tilting the playing field completely one way. That had to be from huge defendants who wanted to drag small entrepreneurs into dilatory situations so that their invention or component could be usurped without proper compensation, even though it might mean the bankruptcy of the inventor and the destruction of the opportunity for the little guys with the inventive vision and spirit, which actually spurred some of the greatest developments and wealth we know and have in this country.

So when I looked again at the damage provision that was being completely changed, I realized whom that was helping and whom that would destroy and I realized that language came from the same type source. It is extremely one-sided and completely abrogates the ability of a court to use factors or standards that are applicable in the vast variety of patent cases which arise. Patents are obtained for so many different types of objects, drugs, and even concepts. To try to force such a huge spectrum of patents into one small specific type of cookie cutter or mold is of great concern to so many.

Then, I remembered also something about this "comprehensive" type approach—that's

what was being said about immigration reform!! In the case of Immigration, "Comprehensive Reform" was being used to make some changes most of us could probably agree on in order to mask within those acceptable provisions other problematic provisions unacceptable to most Americans which could probably not pass by themselves. After finding examples of inappropriately oppressive language that was being stuffed or hidden in a large comprehensive bill, I am left wondering why not just fix the limited areas that are agreeable and not shove a brand new comprehensive, revolutionary change—that some say will absolutely set over 200 years of patent law on its head—that may give some of the largest corporations in the country the ability to prevent others from having the same opportunities they had to become large.

It is real easy to continue to excoriate these horrid "patent trolls", which could easily be addressed by very small changes to a very limited provision. If you want to limit patent trolls, then restrict the abilities of those who purchase the patents or rights to sue as secondary holders of patents. If that is not enough, there are other limited ways to handle it, though one must be careful not to destroy principal patent assets after a company is bought out by another. But I would humbly submit that when an easy fix is rejected to such a problem because some desire the issue to mask an effort that may well denigrate or destroy the adequate ability to preserve such assets—something is amiss in Washington, DC.

As objections from many areas have grown, the private interests pushing this bill have realized they may have pushed too far too fast, so have sought to appear less draconian, but we must review what this bill does. The bill before us today completely changes: The damages or compensation that may be obtained from a wrongdoer for stealing or usurping someone else's patent; the law on where such suits for infringement may be filed; the effect of a patent; the law on administrative review of patents and privacy issues of the patent before it is final. Is it any wonder that the worst thieves nationally and internationally of U.S. intellectual property are hoping we pass this bill.

It is also important to point out that we have heard here today promises about things that will be fixed between now and when the law were to become law. We've been told that our input is welcome toward such fixes. The trouble is, we were told the same thing at the full committee. I was one who was called by name to help the group work on fixes to major problems. Though I am not questioning motivation at this juncture, I have made myself available to meet and have offered suggestions, but the group that was going to meet and work on the changes before today never met that I was advised. My staff says they were never advised. So much for getting in that valuable input.

The question remains: do we need this much of a complete change to a system that has spurred, nurtured and protected the greatest advancements in the history of mankind. I would submit that it is imperative that we back up, vote this down, and come back with non-comprehensive provisions that do not include provisions that will tilt the playing field and so dramatically change our laws to protect intellectual property rights. We should borrow from the old Code in Medicine to first do no harm!

Mr. CONYERS. Mr. Chairman, I yield 2¼ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

□ 1315

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me first of all thank the toiling committee chaired by Chairman CONYERS and Ranking Member SMITH. This has been a long journey. As a new member of the Subcommittee on Intellectual Property, let me also thank both the chairman and ranking member for a tough, tough challenge.

It is important to express that this is a significant change in patent law, but it is done to protect, if you will, the very treasure that has propelled America into an economic engine and that we must insist continue.

I think the changes that have been made certainly to some may be startling, but the effort was to bring all parties together. I am delighted that even though there are questions about, for example, the first-to-file over the first-to-invent, this committee saw fit to add my amendment which means that there will be periodic review so Congress will be instructed on whether or not this works on behalf of all inventors big and small.

Then when we look at the workings in section 5 dealing with first-to-file and dealing with damages. Rather than passing this law forever and ever, an amendment I added will give us an opportunity to study it to assess who is it helping and who is it hurting. We certainly want to ensure that all are given an opportunity.

I am very glad that the manager's amendment has impacted the damages provision. The original bill seemed to require all apportionment in all cases. But in this instance the manager's amendment has made it as one of the factors. Therefore, when you look at a Post-it sticker, you can determine how much the glue has helped the Post-it sticker. This is apportionment of damages in case there was a lawsuit.

I know that there are many groups, such as Innovation Alliance, that I look forward to working with as we make our way through to ensure that this bill answers the questions big and small and fuels the economic engine of manufacturing, universities, pharmaceuticals and others, like small inventors. I ask my colleagues to consider this bill and support it. It has a meaningful response to changing patent law for all involved.

Mr. Chairman, as an original co-sponsor and member of the Judiciary Subcommittee on the Courts, Intellectual Property, and the Internet, I rise in strong support of H.R. 1908, the Patent Reform Act of 2007. I am proud to Support this legislation because in many ways the current patent system is flawed, outdated, and in need of modernization. Under the visionary leadership of Chairman CONYERS and Subcommittee Chairman BERMAN, joined by Mr. SMITH and Mr. COBLE, their counterparts

on the minority side, the Judiciary Committee labored long and hard to produce legislation that reforms the American patent system so that it continues to foster innovation and be the jet fuel of the American economy and remains the envy of the world.

Mr. Chairman, Article I, Section 8, clause 8 of the Constitution confers upon the Congress the power:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

In order to fulfill the Constitution's mandate, we must examine the patent system periodically. The legislation before us represents the first comprehensive review of the patent system in more than a generation. It is right and good and necessary that the Congress now reexamine the patent system to determine whether there may be flaws in its operation that may hamper innovation, including the problems described as decreased patent quality, prevalence of subjective elements in patent practice, patent abuse, and lack of meaningful alternatives to the patent litigation process.

On the other hand, Mr. Chairman, we must always be mindful of the importance of ensuring that small companies have the same opportunities to innovate and have their inventions patented and that the laws will continue to protect their valuable intellectual property.

The role of venture capital is very important in the patent debate, as is preserving the collaboration that now occurs between small firms and universities. We must ensure that whatever improvements we make to the patent laws are not done so at the expense of innovators and to innovation. The legislation before us, while not perfect, does a surprisingly good job at striking the right balance.

Mr. Chairman, the subject of damages and royalty payments, which is covered in Section 5 of the bill, is a complex issue. The complexity stems from the subject matter itself but also interactive effects of patent litigation reform on the royalty negotiation process and the future of innovation. Important innovations come from universities, medical centers, and smaller companies that develop commercial applications from their basic research. These innovators must rely upon the licensing process to monetize their ideas and inventions.

Mr. Chairman, the innovation ecosystem we create and sustain today will produce tomorrow's technological breakthroughs. That ecosystem is comprised of many different operating models. It is for that reason that we evaluated competing patent reform proposals thoroughly to ensure that sweeping changes in one part of the system do not result in unintended consequences to other important parts.

Let me discuss briefly some of the more significant features of this legislation, which I will urge all members to support.

SECTION 3: RIGHT OF THE FIRST INVENTOR TO FILE

H.R. 1908 converts the U.S. patent system from a first-to-invent system to a first-inventor-to file system. The U.S. is alone in granting priority to the first inventor as opposed to the first inventor to file a patent. H.R. 1908 will inject needed clarity and certainty into the system. While cognizant of the enormity of the change that a "first inventor to file" system may have on many small inventors and universities, a grace period is maintained to substantially reduce the negative impact to these inventors.

Moreover, the legislation incorporates an amendment that I offered during the full committee markup that requires the Department of Commerce Undersecretary for Intellectual Property and Director of the Patent and Trademark Office director to conduct a study every seven years on the effectiveness of revisions made in the bill to the patent derivation litigation system and submit the report to the House and Senate Judiciary committees. In embracing this constructive addition to the bill, the Committee Report notes:

[T]he amendments in section 3 of the bill serve to implement a fundamental change in the operation of the United States patent system. Such change, while well-reasoned, requires a mechanism for monitoring its long-term effects.

SECTION 5: FORMULA FOR CALCULATING FAIR AND EQUITABLE REMEDIES

Section 5 of the bill provides useful clarification to courts and juries designed to ensure inventors are compensated fairly, while not discouraging innovation with arbitrary or excessive damage awards. While preserving the right of patent owners to receive appropriate damages, the bill provides a formula to ensure that the patent owner be rewarded for the actual value of the patented invention.

Computing damages in patent cases is an exceedingly complex task. The complexity stems not from the unwillingness of competing interests to find common ground but from the interactive effects of patent litigation reform on the royalty negotiation process and the future of innovation.

To illustrate, consider this frequently cited hypothetical. A new turbine blade for a jet engine is invented which enables the plane to achieve a 40 percent increase in gas mileage. What is fair compensation for the holder of the patent? Damages could fairly be based on the number of turbine blades used, the number of jet engines employing those turbine blades, or on a percentage of the savings of the cost of jet fuel used, or the number of miles flown by aircraft using engines employing the turbine blades, or even, if the higher efficiency of aircraft using the turbine blades was the basis for the market demand for the jet, the jet itself.

The original version of the bill was susceptible to a reasonable interpretation that apportionment would be required in all cases. But as marked up and amended, apportionment is only one of the several methods a court can use in awarding damages, including the use of the current approach established in *Georgia-Pacific v. United States Plywood Corp.*, 318 F.Supp. 116 (S.D.N.Y. 1970), which provides that reasonable royalty damages are ascertained by looking to what the infringer would have paid, and what the patent owner would have accepted, for a license, had one been negotiated at the time the infringement began.

Moreover, apportionment no longer applies to damages based on lost profits. Another change allows plaintiff to recover the enhanced value of previously known elements where their combination in the invention adds value or functionality to the prior art. This is a very important and helpful compromise on the issue of patent case damages. We must keep in mind that important innovations come from universities, medical centers, and smaller companies that develop commercial applications from their basic research. These innovators must rely upon the licensing process to monetize their ideas and inventions.

Thus, it is very important that we take care not to harm this incubator of tomorrow's technological breakthroughs. The bill before us strikes the proper balance.

In addition, it should also be pointed out that included in the bill is another of my amendments adopted during the full committee markup requiring the PTO Director to conduct a study on the effectiveness and efficiency of the amendments to section 5 of the bill, and submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study. The report must include any recommendations the Director may have on amendments to the law add any other recommendations the Director may have with respect to the right of the inventor to obtain damages for patent infringement. The study must be done not later than the end of the 7-year period beginning on the date of enactment of this Act and at the end of every 7-year period after the date of the first study. In adopting this amendment, the Judiciary Committee reported that:

[T]he amendments in section 5 of the bill will have many positive effects on the patent system, but that the changes are sufficiently significant to require periodic monitoring. By examining the effects of these changes on a regular basis, and by paying attention to such feedback as may be obtained through these studies, Congress can ensure that any unforeseen negative consequences that may arise can be dealt with through future legislation or other mechanisms.

WILLFUL INFRINGEMENT AND PRIOR USE RIGHTS

The legislation also contains certain limitations on willful infringement. A court may only find willful infringement if the patent owner shows, by clear and convincing evidence, that (1) the infringer, after receiving detailed written notice from the patentee, performed the acts of infringement, (2) the infringer intentionally copied the patented invention with knowledge that it was patented, or (3) after having been found by a court to have infringed a patent, the infringer engaged in conduct that again infringed on the same patent. An allegation of willfulness is subject to a "good faith" defense. H.R. 1908 also expands the "prior user rights" defense to infringement, where an earlier inventor began using a product or process (although unpatented) before another obtained a patent for it.

POST-GRANT PROCEDURES AND OTHER QUALITY ENHANCEMENTS

Another beneficial feature of H.R. 1908 is that it cures the principal deficiencies of re-examination procedures and creates a new, post-grant review that provides an effective and efficient system for considering challenges to the validity of patents. Addressing concerns that one seeking to cancel a patent could abuse a post-grant review procedure, the bill establishes a single opportunity for challenge that must be initiated within 12 months of the patent being granted. It also requires the PTO Director to prescribe rules for abuse of discovery or improper use of the proceeding, limits the types of prior art which may be considered, and prohibits a party from reasserting claims in court that it raised in post-grant review.

VENUE AND JURISDICTION

Finally, the bill also addresses changes to venue, to address extensive forum shopping and provides for interlocutory appeals to help clarify the claims of the inventions early in the

litigation process. H.R. 1908 would restore balance to this statute by allowing cases to be brought in a variety of locales—including where the defendant is incorporated or has its principal place of business or has committed a substantial portion of the acts of infringement and has a physical facility controlled by the defendant. H.R. 1908 makes patent reform litigation more efficient by providing the Federal Circuit jurisdiction over interlocutory decisions, known as Markman orders, in which the district court construes the claims of a patent as a matter of law.

CONCLUSION

In short, Mr. Chairman, the argument for supporting H.R. 1908 can be summed up as follows: For those who are confident about the future, the bill, as amended, offers vindication. For those who are skeptical that the new changes will work, the Jackson-Lee amendments added to the bill will provide the evidence they need to prove their case. And for those who believe that maintaining the status quo is intolerable, the legislation before us offers the best way forward.

I urge all members to join me in supporting passage of this landmark legislation.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I am pleased to call on my neighbor and friend, MARCY KAPTUR from Toledo, Ohio; and I recognize her for 2 minutes.

Ms. KAPTUR. Mr. Chairman, I thank my good friend from the great State of Michigan, the chairman of the committee, for yielding.

Unfortunately, I have to disagree with him on this bill and urge my colleagues to vote "no" on H.R. 1908 because we don't want to weaken the U.S. patent system. This is surely not the time with a trillion-dollar trade deficit to do more selling out of America and to try to harmonize our standards down to some of the worst intellectual property pirates like China.

This bill essentially makes it easier for infringers to steal U.S. inventions, and it is truly sad that we are only given a few seconds to talk about this. That alone should tell our colleagues, vote "no," give us a chance to open this up and talk about how this is going to affect jobs in America.

This bill affects two-thirds to 80 percent of the asset value of all U.S. firms. Most industrial companies in this country oppose it. Over 200 organizations across this country oppose it, including the electronics industry, pharmaceuticals, small inventors, and universities. And, yet, we just get a few seconds here.

Let me tell you what is going on. Mr. EMANUEL was down here earlier reading a list of the big semiconductor companies, the high-tech firms. This bill does heavily benefit them because they are some of the worst intellectual property infringers.

What this bill does is it supports those large transnational corporations that repeatedly infringe on the patents of others, and they are looking to reduce what they have to pay in the courts. Now, they have had to pay about \$3.5 billion in fines over the last

couple of years, and it was deserved. But that represents less than 1 percent of their revenues. What they are trying to do is use this bill to make it harder for small inventors and others to file.

What does this bill change? It says to an inventor, unlike since 1709 in this country, when we say if you are first to invent, that patent belongs to us, they want to change it to first-to-file. In other words, they can file it anywhere else in the world and someone else can take that and infringe on that invention. It is not first-invention anymore, it is first-to-file. Boy, there is a lot more to say and our time should not be squashed in this House on an issue of such vital importance to the industrial and the commercial base of this country.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Chairman, I thank the gentleman for yielding. Today I rise in strong opposition to the Patent Reform Act of 2007. While I appreciate all of the hard work that Chairman BERMAN did on this bill, I think this bill is bad for our manufacturing industry.

We have been told that the manager's amendment significantly improves the bill. It actually is worse than the underlying bill, especially with respect to the damages section in the bill. This bill is fundamentally flawed. It can't be fixed by the manager's amendment.

This bill will weaken patent protection by making patents less reliable, easier to challenge, and cheaper to infringe. This bill severely threatens American innovation, jobs and competitiveness and ought to be opposed.

Hundreds of companies and organizations around the country have written Congress to raise their strong opposition and their strong objections to certain provisions of this bill. Manufacturers, organized labor, biotech, nanotech, pharmaceuticals, small businesses, universities, and economic development organizations have serious concerns about this legislation.

Foreign companies are watching this legislation and are eager to attack U.S. patents. The Economic Times reports that Indian companies see an opportunity to challenge our patents; and by doing so, they will leave our businesses in a litigation crisis.

We are compromising many of our industries by passing this bill. We are creating a litigation nightmare. We need to proceed to get a better bill, and I urge my colleagues to defeat this legislation so we can move forward on legislation with more people who will support patent reform which has to be changed. I urge my colleagues to defeat this legislation.

Mr. CONYERS. Mr. Chairman, I take 5 seconds to assure my distinguished friend from Maine that I have more industry in my State than he does, and I am protecting them pretty much.

Mr. SMITH of Texas. Mr. Chairman, I yield the balance of my time to Mr.

ISSA, a member of the Judiciary Committee and the holder of 37 U.S. patents.

Mr. ISSA. Mr. Chairman, for those who may be interested, some of my patents have expired and more will.

I am no longer a day-to-day inventor; but I will always have the soul of an inventor, the belief that in fact if you have an idea, you can go to the Patent Office and for a relative de minimis amount of money you can in fact protect that idea for a period of 20 years from the time you ask the Patent Office to protect your invention and give you an opportunity to make a small or not-so-small fortune off of it.

I don't think there is anyone in the Congress who owes their reason for being here to the success of patents more than myself. My company grew and thrived because we were able to protect our intellectual property, patents, copyrights and trademarks. So since I have been here as a non-attorney coming to the Congress and asking to be on the Judiciary Committee, a little bit like Sonny Bono, that is where the things he knew about were legislated. He knew about copyrights and songs; I know a little bit about patents, and a lot about the flaws in the system.

And, Mr. Chairman, there are many flaws in the system. This bill has been the best work by the best minds, both by Members of Congress, but also by staff, trade associations and industry, to bring out those mistakes and to try to find solutions.

Today you have heard a lot of anger and rancor about China. Nobody could want America to prosper more than I do. But, in fact, by next year more than half of all patents in the U.S. will be granted to non-U.S. companies. This is not a debate about protecting patents against foreigners. Foreigners are patenting in our country, and we invite that innovation. It has often led to prosperity in all aspects of America.

I include a long letter from UCSD CONNECT, an organization founded by Bill Otterson and the University of California at San Diego, in which they, along with California Healthcare Institute, BIOCUM, Gen-Probe, Invitrogen, Pfizer, Qualcomm and others who all say this is a good bill, but we have some additional areas we would like to find compromise on. Some of the things in this letter of yesterday are included in the manager's amendment. Some will be included in amendments that will be heard on the floor in a few minutes.

CONNECT®,
September 5, 2007.

Hon. DARRELL ISSA,
Washington, DC.

DEAR REPRESENTATIVE ISSA: We greatly appreciate the time you spent meeting with CONNECT last week to discuss the Patent Reform Act, H.R. 1908. Thank you for your efforts to improve the bill and, in particular, your ongoing work on the post-grant review provision.

Given the immediacy of the House floor consideration, this letter and ensuing draft

language serves as a follow-up to our recent meeting. On behalf of the San Diego innovation community and CONNECT members, we request your continued leadership and strongly urge your consideration of the following improvements to the bill.

APPORTIONMENT OF DAMAGES

As you well know, the damages provision in the patent statute is a critical part of patent law and a vital part of strong patent protection, which CONNECT supports. We believe our patent system must have appropriate consequences that serve as a deterrent for stealing intellectual property. However, we do not want the law modified to the point where patent infringement is simply a cost of doing business. Per our meeting, we have worked with your staff to develop the draft language at the end of this letter to address this important matter.

Further, the courts must have flexibility in the assessment of damages. The bill takes away this flexibility. The judicial system is working. A judge either accepts a jury decision or not, and the appeals system is in place to handle additional grievances. We encourage you to avoid binding the court with a prescribed mechanism and ask you to consider the language following this letter that preserves judges' flexibility.

RULEMAKING

The existing rulemaking language in the bill is too expansive and gives the U.S. Patent and Trademark Office (PTO) unparalleled authority. Congress is expressly given authority in the U.S. Constitution to safeguard intellectual property. In addition, we believe this excessively broad rulemaking power could lead to instability in the patent system. Congress is better equipped to develop standards through legislative means. As such, we urge you to follow the Senate's lead and remove the PTO rulemaking provision from the House bill.

USER FEES

The diversion of user fees has long been a concern because it hinders the PTO's ability to hire examiners and eliminate the backlog of patents. It now takes approximately 31 months for a patent to be issued, and a 2005 congressional report stated that without fee diversion the patent backlog would lower to about 22 months.

Given this, we respectfully ask that you include language, identical to Senator Coburn's amendment to S. 1145, to prevent the diversion of fees collected by the PTO for general revenue purposes by cancelling the appropriations account for PTO fees and creating a new account in the U.S. Treasury for the fees to be deposited.

VENUE

We favor balanced venue language with respect to the parties that is also symmetrical in terms of transfer. Venue should be proper in a district or division: (1) in which either party resides or (2) where the defendant has committed acts of infringement and has a regular and established place of business. Specifically, we urge a return to the pre-markup venue provision in H.R. 1908.

Thank you, again, for your consideration of our views and the accompanying draft language. Though we do not support the bill as currently written, we want to work with you to make the legislation a means to strengthen the patent system to advance innovation, promote entrepreneurship and boost job growth. We look forward to continuing to work with you to achieve these goals.

Sincerely,

CONNECT, AMN Healthcare, California Healthcare Institute, BIOCUM, Gen-Probe, Invitrogen, Pfizer, QUALCOMM, San Diego State University Research Foundation Tech Transfer Office, Tech

Coast Angels, Townsend and Townsend and Crew.

DRAFT DAMAGES LANGUAGE

SEC. 5. RIGHT OF THE INVENTOR TO OBTAIN DAMAGES.

(a) DAMAGES.—Section 284 is amended—

(1) in the first paragraph—

(A) by striking "Upon" and inserting "(a) IN GENERAL.—Upon";

(B) by designating the second undesignated paragraph as subsection (c); and

(C) by inserting after subsection (a) (as designated by subparagraph (A) of this paragraph) the following:

"(b) REASONABLE ROYALTY.—

"(1) IN GENERAL.—An award pursuant to subsection (a) that is based upon a reasonable royalty shall be determined in accordance with this subsection. Based on the facts of the case, the court shall consider the applicability of paragraph (2), (3) and (5) in calculating a reasonable royalty. The court shall identify the factors that are relevant to the determination of a reasonable royalty under the applicable paragraph, and the court or jury, as the case may be, shall consider only those factors in making the determination.

"(2) RELATIONSHIP OF DAMAGES TO CONTRIBUTIONS OVER PRIOR ART.—If an infringer shows evidence that features not covered by the claimed invention contribute economic value to the accused product or process, an analysis may be conducted to ensure that a reasonable royalty under subsection (a) is applied only to that economic value properly attributable to the claimed invention. The court, or the jury, as the case may be, may exclude from the analysis the economic value properly attributable to features not covered by the claimed invention that contribute economic value to the infringing product or process.

"(3) ENTIRE MARKET VALUE.—If the claimant shows that the claimed invention is the predominant basis for market demand for a product or process that has a functional relationship with the claimed invention, damages may be based upon the entire market value of the products or processes involved that satisfy that demand.

"(4) COMBINATION INVENTIONS.—For purposes of paragraphs (2) and (3), in the case of a combination product or process the elements of which are present individually in the prior art, the patentee may show that the economic value attributable to the infringing product includes the value of the additional function resulting from the combination, as well as the enhanced value, if any, of some or all of the prior art elements resulting from the combination.

"(5) OTHER FACTORS.—In determining a reasonable royalty, the court may also consider, or direct the jury to consider, the terms of any nonexclusive marketplace licensing of the invention, where appropriate, as well as any other relevant factors under applicable law."

Mr. Chairman, this is a work in process; but since when does this body say that in fact the good will be sacrificed in search of the perfect? We have never done that. Every bill that goes through here is by definition the best work we can do as a continuous body, one that will come back after this bill becomes law and continue working on refinements.

I would like to quickly say there will be amendments that will be offered that will deal with some of the very issues that people have said today are an outrage because they are not there. I hope that my colleagues, even if they

do not vote for the final bill, will come and support the amendments that make this bill better because as a body what we do best is we take the best ideas from the best places we can get them, we bring them together and we create the best bill we possibly can.

That is what we have done here today. It is the best work available. People who are dissenting today, we welcome on a bipartisan basis their input to find language that will make it better.

Mr. Chairman, in closing, the one thing I would say is we are past the point of compromise. What we are into is finding win/wins. We are looking to take issues in which one side is for and one side is against and find real middle ground, and we have done that in a couple of areas, and we will continue to want to do that.

I am a small inventor. I want to make sure that the small inventor is protected. That is why this bill is going to maintain the right of the small inventor, or any inventor, to retain the secrecy of their invention if they are not granted a patent. That is why we are going to limit the regulatory authority of the PTO so that for a time, as long as we need to, every time they propose a rule, we will have a right and an obligation to consider it and if even one Member of this body opposes it, to bring to a vote that opposition to the rule.

These kinds of compromises and win/wins and thoughtful legislation are unusual in this body. That is why I believe that this will win overwhelming support here. We will continue to work to find an even better bill in conference with the Senate because, in fact, we are a bicameral body. We have to, in fact, get something that both sides can live with.

In closing, I want to thank Mr. BERMAN, Mr. CONYERS, and certainly Mr. SMITH and Mr. COBLE because they have made this the best bill we can possibly have.

Mr. Chairman, I rise in support of H.R. 1908, the Patent Reform Act of 2007. While we will continue to improve the bill as this process moves forward, I support the product before us and look forward to ongoing efforts to strengthen this legislation.

As the holder of 37 United States patents, I came to Congress with the desire to tackle elements I found awry in our patent laws. While in the private sector, I litigated several patent cases before our district courts and the United States Court of Appeals for the Federal Circuit. Through these experiences, I learned a great deal about patent law, both what was right with the law and areas that could use improvement.

One area in need of improvement is in the ability of district court judges to hear patent cases effectively. I am gratified that the House passed legislation I authored to address this problem in the last two congresses. However, we are here today to deal with the substance of patent law, not our judges' ability to master it.

There are strong arguments in favor of reform, as well as strong arguments in favor of

caution as we move forward. Our patent laws have not had an overhaul in many decades, while technology has advanced exponentially. Not all of our patent laws fit today with the advancements we have seen in electronics, biotechnology, and many other areas. Importantly, many commentators and practitioners are concerned with the preponderance of over-zealous litigation and what some deem exaggerated damages awards.

Both of these issues are addressed in part in this bill. The creation of a post grant review procedure at the Patent Office will help direct some conflicts away from court to an administrative remedy, hopefully saving vast resources in time and money. Damages awards are addressed in encouraging courts to look toward apportioning damages more often, or allowing damages that represent the value of an infringed invention in a product into which the invention is incorporated.

With damages and several other issues in this legislation, there is still work to be done. But to keep this process moving, to keep parties negotiating in good faith, I believe we must support this bill today and commit to improving it in the weeks to come.

I am offering two amendments today to help address issues that opponents of this legislation have highlighted over the forgoing negotiation process. The first maintains the ability of patent applicants to keep their application from going public until action is taken by the patent office. Opponents of the current bill argue that, because the legislation before us eliminates this option, entities at home and abroad will steal an applicant's ideas. My amendment solves this problem.

The second amendment focuses on the ability of the United States Patent and Trademark Office to promulgate rules. The PTO currently has limited ability to do so, and opponents of this legislation argue that the very ability of the United States to compete in a global economy could be adversely affected by a bad rule put forth by the PTO. My amendment requires a 60-day delay before PTO rules take effect so that Congress may have the opportunity to review these rules. If Congress finds the rule unacceptable, it has the ability to vote on a Joint Resolution of Disapproval nullifying the PTO's action. If Congress does nothing, the rule takes effect. Therefore, this amendment helps to ameliorate concerns over possible PTO action that could harm innovation in the United States.

Even opponents of the underlying bill should support these amendments. While my amendments do not cure all ills in the legislation as seen by its opponents, they do address two very controversial problems in the bill.

I thank Judiciary Committee Ranking Member LAMAR SMITH and Subcommittee Chairman HOWARD BERMAN for all of their effort on this legislation, and I especially thank them for their indulgences in hearing my thoughts on these issues as we have worked over the years on patent reform. We have worked long and hard on this bill, and I have the full intention to continue our work together after today's votes.

Mr. CONYERS. Mr. Chairman, I now introduce for our closing speaker the distinguished gentleman from Florida, Mr. BOB WEXLER, to have the balance of our time.

Mr. WEXLER. Mr. Chairman, a co-chair of the Congressional Caucus on

Intellectual Property Promotion, I rise in strong support of this patent reform legislation because it is critical for the continued growth of American businesses and the creation of high-paying jobs in America.

This bill will nurture and protect inventors, thereby promoting future Alexander Graham Bells and tomorrow's Microsofts.

For more than 200 years, strong patent protection, along with timely examination of patent applications, has helped secure the economic success of the United States by empowering inventors and encouraging the development of American business both large and small.

□ 1330

Every day, Americans rely on the innovation that comes from our patent system. From new computer technologies to medicines for America's seniors, the American patent system provides the fuel for our most important technological accomplishments.

In America today, our capacity to come up with new ideas actually outstrips the value of the goods we make. The licensing of U.S. patents contributes approximately \$150 billion to our annual economy, and intellectual property, including patents, is the only economic area where the United States maintains a solid trade surplus with the rest of the world.

A well-functioning patent system is vital to America's commercial and scientific entrepreneurs and preserves the incentives for innovation guaranteed under the United States Constitution.

This legislation will make America more competitive in the global marketplace, not less. We need to support Mr. BERMAN and Mr. CONYERS in their effort to produce what I would respectfully suggest is the most important economic legislation that this House will pass. This is excellent for America's workers; it's excellent for America's universities and our economy at large.

Ms. HIRONO. Mr. Chairman, I rise in reluctant opposition to H.R. 1908, the Patent Reform Act.

I applaud the House Judiciary Committee and the House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property for their efforts in putting together this comprehensive bill. However, I cannot in good conscience support the Patent Reform Act in its current form given the concerns that continue to be raised from organizations in my district and at least 100 companies nationwide.

Organizations in my district, such as the Hawaii Science & Technology Council and University of Hawaii's Office of Technology Transfer and Economic Development, have raised concerns regarding the provisions on mandatory publication, prior user rights, apportionment of damages, and post-grant review, which may discourage investment in innovative technologies, harm inventors, and reduce publication and collaborative activities among academic scientists. I want to make sure that the final bill that becomes law protects the interests of Hawaii's burgeoning high technology industry and small inventors.

This bill remains a work-in-progress that certainly requires more debate. Our patent system serves as the basis for America's innovation. It is my hope that the concerns and needs of our inventors will be addressed in conference should this bill pass the House as I very much want to be able to support the final conference report.

Mr. ETHERIDGE. Mr. Chairman, I rise in opposition to H.R. 1908, Patent Reform Act of 2007.

While I recognize the need for some reform of the United States' patent process, I believe we must proceed carefully and with the goal of improvement for the many stakeholders affected by the patent system. We should continue to work towards an efficient system that issues high-quality patents and places reasonable limits on patent challenges. Although there are some provisions in H.R. 1908 that could prove beneficial, this far-reaching bill could do serious harm to many of the important employers in my district.

North Carolina benefits greatly from its strong university system. Institutions including the University of North Carolina at Chapel Hill and North Carolina State University in my district serve as engines for research and innovation that help to drive the state's economy. In addition, the 2nd Congressional District of North Carolina contains a number of pharmaceutical companies and biotechnology companies that provide thousands of jobs and are helping to transform our economy. Along with many of the traditional manufacturing companies in North Carolina, the lifeblood of these institutions is the value of the patents they hold. These entities have expressed opposition to any measure that would weaken their patent portfolios. H.R. 1908 in its current form would endanger the value of their patents and harm their ability to continue fueling our economy.

Our patent system has long been a wonderful tool that has helped to foster innovation and reward American ingenuity. Patents, and their value and validity, serve as the backbone for thousands of companies and help form the basis of our economy. Congress should continue to work to reform the system in a way that benefits all of the varied interests that keep our economy strong. I hope the conference committee on H.R. 1908 can correct its shortcomings so I can support and Congress can enact comprehensive reform of our patent process.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to commend Chairman CONYERS and the House Leadership for their diligence in addressing the issue of patent reform, and to express why I unfortunately must oppose this bill in its current form.

There is an overwhelming need to move patents through the approval process quickly, fairly, and economically. I commend this bill on many of the positive changes it makes to the reform system, but I remain concerned about provisions that may dramatically restrict damages payable by infringers. It is my fear that this bill will alter the current system in favor of defendants resulting in further backlogs. These changes to the current system would ultimately hurt existing patent owners.

In addition, this bill implements a post grant review process that will lead to duplicative challenges, resulting in an increase to the cost of patent ownership and significantly decreasing the enforceability, predictability and value of all patents.

Numerous technology firms, both large and small are opposed to this bill, as well as, many universities. These are the people on the forefront of our technological future and their voice and opposition need to be heard.

Innovation and advancement are key to the future of America. It is my concern that this bill will tilt the legal balance in favor of patent infringers and discourage innovation and investment in research and development. We must protect our innovators and allow them to pursue concise and necessary action in the court of law.

Ms. MATSUI. Mr. Chairman, I rise today in support of the progress to our Nation's competitiveness that the Patent Reform Act represents. Patents are vital to our universities, our large and small companies, our entrepreneurs, and our economy. Our advances in technology are clearly demonstrated by the vast increase in patent applications submitted. Our policies and procedures governing the United States patent process must be updated to keep pace with our inventors. The Patent Reform Act takes significant steps towards that goal.

I appreciate the extensive patent portfolio that is generated by the cutting-edge research at the University of California. These innovations provide the intellectual property that businesses depend on to develop new products. I have heard from numerous constituents in my district on this issue who benefit from the technology transfer process. I am happy to represent their interests by supporting patent reform. This is an incredibly complex topic, as we face the challenge of legislating a single patent system to meet the needs of many industries.

I commend Subcommittee Chairman BERMAN, Chairman CONYERS, Ranking Member SMITH, and the entire House Judiciary Committee for their diligence. They have worked tirelessly with hundreds of stakeholders to reach the carefully crafted bill that we have on the floor today. I thank the committee and its staff for their long commitment to patent reform. The product of their years of work, the Patent Reform Act, will improve our nation's competitiveness and start moving our country's patent system into the 21st century.

Mrs. BONO. Mr. Chairman, today I rise in support of the Patent Reform Act of 2007. I would like to commend Congressman BERMAN, Congressman SMITH and the many Members of the House, on both sides of the aisle, who have worked diligently to bring this legislation before us. As one who cares deeply about the importance of strong legal protections for copyright and other intellectual property rights, I look forward to supporting this bill today.

My experience with the importance of intellectual property rights has been in the field of entertainment, specifically music. The greatest protection that the innovators of these songs and performances have is their ability to copyright. To continue encouraging involvement and growth in the area of entertainment and the myriad of jobs that are tied to the industry, it is critical that patents are protected, in order to support the many creative individuals who bring music to the masses.

Many of the issues that we address in Congress from telecommunications to energy to health care advancements all have their basis in a few core concepts—the ability for small and large inventors to pursue a unique idea

through the patent process. With that pursuit brings the need for related capital that is often required from outside investors to further the research and development that brings the patent holder's idea to consumers across the world. California is home to some of the most impressive and entrepreneurial high-tech, biotech and entertainment industries that rely heavily on patent protection and copyright laws. Each of these industries, and their hundreds of thousands of employees, will be greatly impacted by these changes.

This basic concept of innovation is as critical in the high-tech field as it is in the health sciences and biotech realm. However, as many of my colleagues have pointed out today, the interaction between competitors and the role of patent protections differs greatly between fields. There is no one-size-fits-all solution. As this legislation moves forward and is considered in conference, it is my hope that the conferees will be aware of the concerns that have been expressed by the biotech industry and take these concerns into consideration.

Again, I would like to reiterate my support of this long awaited legislation. There has been remarkable bipartisan work on this legislation over the past several years and I am proud to cast my vote in support of it.

Mr. UDALL of Colorado. Mr. Chairman, while I have some concerns about this bill, I will vote for it because I think on balance it deserves to be approved as a necessary step toward needed improvements in the current law.

I am far from expert in the intricacies of patent law, so I have listened carefully to those with more knowledge, including several companies employing substantial numbers of Coloradans that utilize patents in various fields. While they are not unanimous, most of them have urged support for the legislation.

I have also noted that the passage of the legislation, as a step toward needed improvements in the current law, is supported by the Consumers Federation of America, Consumers Union, the Electronic Frontier Foundation, and other groups including the Financial Services Roundtable.

At the same time, I have listened to the concerns expressed by others who have raised a number of objections to the bill and think that its defects are so serious as to merit rejection of the legislation in its current form.

I take those objections seriously, but I have decided that nonetheless the better outcome today is for the House to pass the bill and for further discussion of the points they raise to occur in the context of debate in the Senate and then a conference between that body and the House of Representatives.

Mrs. MCCARTHY of New York. Mr. Chairman, I will support H.R. 1908 with some reservations.

Our patent laws need to be updated to address the concerns of a 21st Century global economy. For decades, the law has reacted to innovation rather than anticipating it. H.R. 1908 contains many positive provisions that will make it easier for us to compete. I, therefore, want the process to move forward.

The American economy is strong in part because it is diverse. We do not depend on only one segment for our income. Some countries grow crops. Others rely on tourism. Still other countries depend on finite natural resources. Some specialize in manufacturing or providing specific services. We are fortunate enough to

be able to conduct all these businesses and more.

A revised patent law must protect and encourage all segments of our economy. We cannot favor high tech over manufacturing. We cannot discourage biotech research while encouraging financial services.

If our economic foundation remains strong and diversified, we will be able to retain our preeminent role in the world's economy. However, if our patent laws inhibit invention and innovation in manufacturing and basic research, then we would be undermining the very strength of our national economy.

As the legislative process continues, I hope that the authors of H.R. 1908 and the members of the other body will remember one important point. The purpose of our patent law is to protect and promote American innovation. Innovation by Americans and for Americans is the keystone to our domestic economic vitality and strength.

The final version of patent reform must address the legitimate interests of manufacturing, biotech, and small inventors. My vote on a final patent reform bill will depend on how well those interests are met.

Ms. ESHOO. Mr. Chairman, I rise in strong support of this legislation which I am proud to cosponsor, and I congratulate Chairman BERMAN for his exceptional leadership and on this complex issue.

I am proud to represent Silicon Valley, which is known worldwide for the innovation and developing technologies that continue to change and improve our lives. Nowhere in America—nowhere in the world—are ideas, invention, and intellectual property more important.

Patents and IP are the cornerstone of the Information Economy, and it is essential that the United States patent system continue to foster the ideas and innovation which fuel our economy and keep America competitive.

The patent system, unfortunately, has been subject to abuse, and unscrupulous opportunists have exploited the rights granted to legitimate patent holders to target innovative companies and file groundless lawsuits based on dubious patents.

The rapid pace of innovation and increasingly complex patent filings have strained the Patent and Trademark Office and patent claims of questionable validity have been granted.

Loopholes and shortcomings in the disposition of patent cases also allow baseless claims of infringement to create unnecessary litigation and extort nuisance settlements, sapping billions from economic growth, and creating a drag on real innovation.

Technology companies have become particularly enticing targets for this litigation because of the broad importance of patents to technology products. Just a single piece of high-tech equipment can contain hundreds of patents, and any one of them can now be used to sue for the value of the entire product.

One company in Silicon Valley—Cisco Systems—spent \$45 million this year to defend patent infringement cases.

It is time to implement reforms to the patent system and ensure that we reward truly novel ideas and cutting edge innovation, not successful litigation strategies.

This bipartisan legislation enjoys broad support throughout the technology industry, major universities including the University of Cali-

fornia, as well as major consumer groups such as Consumer Federation of America, Consumers Union, and U.S. PIRG.

I urge my colleagues to support this bill which will restore balance to our patent system.

Ms. WOOLSEY. Mr. Chairman, the patent reform bill before us today is a necessary step to modernize and streamline our patent process to ensure American innovation will keep our country competitive. It's been over 50 years since we have updated our patent process. That's before the Internet, before personal computers, and before digital music. Actually, it's 5 years before they launched Sputnik. So, there can be no doubt that reforming the system to accommodate a new era of innovation is needed.

Although this bill isn't perfect, I think that it does move the ball forward in terms of reforming the system. Clearly, additional patent reform is needed in the pharmaceutical and biomedical industry as there are many issues left unresolved by H.R. 1908. Hopefully these issues can be addressed in conference with the Senate.

Mr. Chairman, I commend my colleagues on the Judiciary committee for all of their hard work on this bill, it's been fifty-five years in the making, and it's time for an update.

Mr. CANNON. Mr. Chairman, I urge you to support the Patent Reform Act of 2007, H.R. 1908.

Certain aspects of our patent system have not been amended since 1954, but our economy has changed dramatically since then and it's time our patent system caught up.

H.R. 1908 was introduced and is supported by the bipartisan leadership of the Judiciary Committee and was approved by the committee in a unanimous voice vote.

For the sake of our Nation's ability to innovate, grow and compete, we must pass this legislation.

The danger of not reforming our patent system is real and we are witnessing its effects today.

Patents of questionable validity are limiting competition and raising prices for consumers—a fact noted by the Federal Trade Commission in a 2003 report.

In addition, current interpretations of patent law by district and appellate courts have veered far from what Congress originally intended.

The result is that companies are diverting resources from R&D to pay for legal defense.

Because interpretations of patent law are so off-course, the U.S. Supreme Court has had to intervene in an unusually high number of patent cases in recent years.

In one case, the Court explicitly called for Congress to take action.

We have been debating patent reform for years. Such issues as post-grant review and damages apportionment have been components of various patent reform bills in the House and Senate over the course of the last several sessions and have been discussed at length in nearly every forum, from Congressional hearings to the media.

One issue that generated the most debate in previous Congresses—injunctions—was resolved by the U.S. Supreme Court in 2006 in much the same way as proposed legislation would have done.

Yet despite predictions from some that reforming the standards for granting injunctions

would grind innovation to a halt, patent holders still are granted injunctions today to protect their intellectual property. In fact, the patent system is healthier as a result.

H.R. 1908 will restore fairness and common sense to the standards for awarding reasonable damages.

Today, patent holders regularly are awarded damages based on the value of an entire product, even if the patent in question is one of literally thousands of other patented components comprising the product.

Additionally, H.R. 1908 will give trained patent examiners greater ability to review patents and enhance patent quality.

Innovation is indeed threatened not by changes to the system, but by the status quo. After years of debate, it's time for action.

One area of particular interest to me is the language in the manager's amendment dealing with venue reform.

I am pleased the Chairman included venue reform language in the manager's amendment.

At the Judiciary Committee, Representative ZOE LOFGREN of California offered an amendment that I cosponsored that would inject sanity into the patent litigation system.

The venue reform language will create a real and substantial relationship between the parties and the acts of infringement by denying the ability to manufacture venue for hopes of gaming the judicial system.

During years of efforts on litigation reform, we have learned about what some have referred to as Judicial Hell Holes.

These locations are where judges apply laws and procedures in an unfair and unbalanced manner.

The underlying legislation's intent is to bring fairness and balance into the patent system.

And the venue language will bring fairness and balance to patent litigation.

This amendment will not close the court house door on any plaintiff.

But it will require legitimate nexus for where claims may be brought.

The nexus requirements of the amendment will prevent groups or entities from artificially manipulating presence in a judicial district just to game the system to file suit.

Swift passage of H.R. 1908 will stimulate innovation, competition and growth—great news for consumers, workers and our global economic leadership.

I urge support of H.R. 1908.

Mrs. TAUSCHER. Mr. Chairman, I rise today to commend the work of my colleague, Chairman HOWARD BERMAN, on the Patent Reform Act of 2007.

This bill is a necessary step forward in the modernization of a patent system that has not been meaningfully updated for decades.

I urge my colleagues to show their support for reform by casting a vote for this bill.

This bill will result in higher quality patents emerging from the Patent and Trademark Office.

It will harmonize our patent system with that of our major trading partners.

And it will improve fairness in litigation by preventing "patent trolls" from shopping around for friendly courts.

At the same time, I look forward to working with Congressman BERMAN to fine-tune a number of provisions in this bill.

In my State of California, our economy is based on the incredible advances made by

university researchers, the high-tech sector, and the life sciences industry.

Innovations in all sectors must be afforded the strongest possible protection.

This has particular importance for small venture-backed firms whose patents are their only asset.

With this in mind, I look forward to seeing improvements to provisions governing the way damage awards are calculated in patent suits.

The inequitable conduct defense and the issue of continuations also deserve further review and revision.

I again applaud Chairman BERMAN for his efforts, and urge my colleagues to support H.R. 1908.

The Acting CHAIRMAN (Mr. ROSS). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Patent Reform Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference to title 35, United States Code.
- Sec. 3. Right of the first inventor to file.
- Sec. 4. Inventor's oath or declaration.
- Sec. 5. Right of the inventor to obtain damages.
- Sec. 6. Post-grant procedures and other quality enhancements.
- Sec. 7. Definitions; patent trial and appeal board.
- Sec. 8. Study and report on reexamination proceedings.
- Sec. 9. Submissions by third parties and other quality enhancements.
- Sec. 10. Tax planning methods not patentable.
- Sec. 11. Venue and jurisdiction.
- Sec. 12. Additional information; inequitable conduct as defense to infringement.
- Sec. 13. Best mode requirement.
- Sec. 14. Regulatory authority.
- Sec. 15. Technical amendments.
- Sec. 16. Study of special masters in patent cases.
- Sec. 17. Rule of construction.

SEC. 2. REFERENCE TO TITLE 35, UNITED STATES CODE.

Whenever in this Act a section or other provision is amended or repealed, that amendment or repeal shall be considered to be made to that section or other provision of title 35, United States Code.

SEC. 3. RIGHT OF THE FIRST INVENTOR TO FILE.

(a) **DEFINITIONS.**—Section 100 is amended by adding at the end the following:

“(f) The term ‘inventor’ means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of an invention.

“(g) The terms ‘joint inventor’ and ‘co-inventor’ mean any one of the individuals who invented or discovered the subject matter of a joint invention.

“(h) The ‘effective filing date of a claimed invention’ is—

“(1) the filing date of the patent or the application for patent containing the claim to the invention; or

“(2) if the patent or application for patent is entitled to a right of priority of any other appli-

cation under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c), the filing date of the earliest such application in which the claimed invention is disclosed in the manner provided by section 112(a).

“(i) The term ‘claimed invention’ means the subject matter defined by a claim in a patent or an application for a patent.

“(j) The term ‘joint invention’ means an invention resulting from the collaboration of inventive endeavors of two or more persons working toward the same end and producing an invention by their collective efforts.”.

(b) **CONDITIONS FOR PATENTABILITY.**—

(1) **IN GENERAL.**—Section 102 is amended to read as follows:

“§ 102. Conditions for patentability; novelty

“(a) **NOVELTY; PRIOR ART.**—A patent for a claimed invention may not be obtained if—

“(1) the claimed invention was patented, described in a printed publication, in public use, or on sale—

“(A) more than one year before the effective filing date of the claimed invention; or

“(B) one year or less before the effective filing date of the claimed invention, other than through disclosures made by the inventor or a joint inventor or by others who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

“(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

“(b) **EXCEPTIONS.**—

“(1) **PRIOR INVENTOR DISCLOSURE EXCEPTION.**—Subject matter that would otherwise qualify as prior art based upon a disclosure under subparagraph (B) of subsection (a)(1) shall not be prior art to a claimed invention under that subparagraph if the subject matter had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or others who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

“(2) **DERIVATION, PRIOR DISCLOSURE, AND COMMON ASSIGNMENT EXCEPTIONS.**—Subject matter that would otherwise qualify as prior art only under subsection (a)(2) shall not be prior art to a claimed invention if—

“(A) the subject matter was obtained directly or indirectly from the inventor or a joint inventor;

“(B) the subject matter had been publicly disclosed by the inventor or a joint inventor or others who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor before the date on which the application or patent referred to in subsection (a)(2) was effectively filed; or

“(C) the subject matter and the claimed invention, not later than the effective filing date of the claimed invention, were owned by the same person or subject to an obligation of assignment to the same person.

“(3) **JOINT RESEARCH AGREEMENT EXCEPTION.**—

“(A) **IN GENERAL.**—Subject matter and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person in applying the provisions of paragraph (2) if—

“(i) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the effective filing date of the claimed invention;

“(ii) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

“(iii) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

“(B) For purposes of subparagraph (A), the term ‘joint research agreement’ means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

“(4) **PATENTS AND PUBLISHED APPLICATIONS EFFECTIVELY FILED.**—A patent or application for patent is effectively filed under subsection (a)(2) with respect to any subject matter described in the patent or application—

“(A) as of the filing date of the patent or the application for patent; or

“(B) if the patent or application for patent is entitled to claim a right of priority under section 119, 365(a), or 365(b) or to claim the benefit of an earlier filing date under section 120, 121, or 365(c), based upon one or more prior filed applications for patent, as of the filing date of the earliest such application that describes the subject matter.”.

(2) **CONFORMING AMENDMENT.**—The item relating to section 102 in the table of sections for chapter 10 is amended to read as follows:

“102. Conditions for patentability; novelty.”.

(c) **CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER.**—Section 103 is amended to read as follows:

“§ 103. Conditions for patentability; non-obvious subject matter

“A patent for a claimed invention may not be obtained though the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.”.

(d) **REPEAL OF REQUIREMENTS FOR INVENTIONS MADE ABROAD.**—Section 104, and the item relating to that section in the table of sections for chapter 10, are repealed.

(e) **REPEAL OF STATUTORY INVENTION REGISTRATION.**—

(1) **IN GENERAL.**—Section 157, and the item relating to that section in the table of sections for chapter 14, are repealed.

(2) **REMOVAL OF CROSS REFERENCES.**—Section 111(b)(8) is amended by striking “sections 115, 131, 135, and 157” and inserting “sections 131 and 135”.

(f) **EARLIER FILING DATE FOR INVENTOR AND JOINT INVENTOR.**—Section 120 is amended by striking “which is filed by an inventor or inventors named” and inserting “which names an inventor or joint inventor”.

(g) **CONFORMING AMENDMENTS.**—

(1) **RIGHT OF PRIORITY.**—Section 172 is amended by striking “and the time specified in section 102(d)”.

(2) **LIMITATION ON REMEDIES.**—Section 287(c)(4) is amended by striking “the earliest effective filing date of which is prior to” and inserting “which has an effective filing date before”.

(3) **INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES: EFFECT.**—Section 363 is amended by striking “except as otherwise provided in section 102(e) of this title”.

(4) **PUBLICATION OF INTERNATIONAL APPLICATION: EFFECT.**—Section 374 is amended by striking “sections 102(e) and 154(d)” and inserting “section 154(d)”.

(5) **PATENT ISSUED ON INTERNATIONAL APPLICATION: EFFECT.**—The second sentence of section 375(a) is amended by striking “Subject to section 102(e) of this title, such” and inserting “Such”.

(6) **LIMIT ON RIGHT OF PRIORITY.**—Section 119(a) is amended by striking “; but no patent shall be granted” and all that follows through “one year prior to such filing”.

(7) **INVENTIONS MADE WITH FEDERAL ASSISTANCE.**—Section 202(c) is amended—

(A) in paragraph (2)—

(i) by striking “publication, on sale, or public use,” and all that follows through “obtained in the United States” and inserting “the 1-year period referred to in section 102(a) would end before the end of that 2-year period”; and

(ii) by striking “the statutory” and inserting “that 1-year”; and

(B) in paragraph (3), by striking “any statutory bar date that may occur under this title due to publication, on sale, or public use” and inserting “the expiration of the 1-year period referred to in section 102(a)”.

(h) REPEAL OF INTERFERING PATENT REMEDIES.—Section 291, and the item relating to that section in the table of sections for chapter 29, are repealed.

(i) ACTION FOR CLAIM TO PATENT ON DERIVED INVENTION.—

(1) IN GENERAL.—Section 135(a) is amended to read as follows:

“(a) DISPUTE OVER RIGHT TO PATENT.—

(1) INSTITUTION OF DERIVATION PROCEEDING.—

“(A) REQUEST FOR PROCEEDING.—An applicant may request initiation of a derivation proceeding to determine the right of the applicant to a patent by filing a request that sets forth with particularity the basis for finding that another applicant derived the claimed invention from the applicant requesting the proceeding and, without authorization, filed an application claiming such invention. Any such request—

“(i) may only be made within 12 months after the earlier of—

“(I) the date on which a patent is issued containing a claim that is the same or substantially the same as the claimed invention; or

“(II) the date of first publication of an application containing a claim that is the same or is substantially the same as the claimed invention; and

“(ii) must be made under oath, and must be supported by substantial evidence.

“(B) DETERMINATION OF DIRECTOR.—Whenever the Director determines that patents or applications for patent naming different individuals as the inventor interfere with one another because of a dispute over the right to patent under section 101 on the basis of a request under subparagraph (A), the Director shall institute a derivation proceeding for the purpose of determining which applicant is entitled to a patent.

“(2) DETERMINATION BY PATENT TRIAL AND APPEAL BOARD.—In any proceeding under this subsection, the Patent Trial and Appeal Board—

“(A) shall determine the question of the right to patent;

“(B) in appropriate circumstances, may correct the naming of the inventor in any application or patent at issue; and

“(C) shall issue a final decision on the right to patent.

“(3) DERIVATION PROCEEDING.—The Patent Trial and Appeal Board may defer action on a request to initiate a derivation proceeding for up to three months after the date on which the Director issues a patent to the applicant that filed the earlier application.

“(4) EFFECT OF FINAL DECISION.—The final decision of the Patent Trial and Appeal Board in a derivation proceeding, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office on the claims involved. The Director may issue a patent to an applicant who is determined by the Patent Trial and Appeal Board to have the right to a patent. The final decision of the Board, if adverse to a patentee, shall, if no appeal or other review of the decision has been or can be taken or had, constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office.”.

(2) CONFORMING AMENDMENTS.—(A) Section 135 is further amended—

(i) in subsection (b)—

(I) by striking “(b)(1) A claim” and inserting the following:

“(b) SAME CLAIMS.—

“(1) ISSUED PATENTS.—A claim”; and

(II) by striking “(2) A claim” and inserting the following:

“(2) PUBLISHED APPLICATIONS.—A claim”; and

(III) moving the remaining text of paragraphs (1) and (2) 2 ems to the right;

(ii) in subsection (c)—

(I) by striking “(c) Any agreement” and inserting the following:

“(c) AGREEMENTS TO TERMINATE PROCEEDINGS.—

“(1) IN GENERAL.—Any agreement”; and

(II) by striking “an interference” and inserting “a derivation proceeding”; and

(III) by striking “the interference” each place it appears and inserting “the derivation proceeding”; and

(IV) in the second paragraph, by striking “The Director” and inserting the following:

“(2) NOTICE.—The Director”; and

(V) by amending the third paragraph to read as follows:

“(3) JUDICIAL REVIEW.—Any discretionary action of the Director under this subsection shall be reviewable under chapter 7 of title 5.”; and

(VI) by moving the remaining text of paragraphs (1) and (2) of subsection (c) 2 ems to the right; and

(iii) in subsection (d)—

(I) by striking “(d) Parties” and inserting “(d) ARBITRATION.—Parties”; and

(II) by striking “a patent interference” and inserting “a derivation proceeding”; and

(III) by striking “the interference” and inserting “the derivation proceeding”.

(j) ELIMINATION OF REFERENCES TO INTERFERENCES.—(1) Sections 41(a)(6), 134, 141, 145, 146, 154, 305, and 314 are each amended by striking “Board of Patent Appeals and Interferences” each place it appears and inserting “Patent Trial and Appeal Board”.

(2) Section 141 is amended—

(A) by striking “an interference” and inserting “a derivation proceeding”; and

(B) by striking “interference” each additional place it appears and inserting “derivation proceeding”.

(3) Section 146 is amended—

(A) in the first paragraph—

(i) by striking “Any party” and inserting “(a) IN GENERAL.—Any party”; and

(ii) by striking “an interference” and inserting “a derivation proceeding”; and

(iii) by striking “interference” each additional place it appears and inserting “derivation proceeding”; and

(B) in the second paragraph, by striking “Such suit” and inserting “(b) PROCEDURE.—A suit under subsection (a)”.

(4) The section heading for section 134 is amended to read as follows:

“§ 134. Appeal to the Patent Trial and Appeal Board”.

(5) The section heading for section 135 is amended to read as follows:

“§ 135. Derivation proceedings”.

(6) The section heading for section 146 is amended to read as follows:

“§ 146. Civil action in case of derivation proceeding”.

(7) Section 154(b)(1)(C) is amended by striking “INTERFERENCES” and inserting “DERIVATION PROCEEDINGS”.

(8) The item relating to section 6 in the table of sections for chapter 1 is amended to read as follows:

“6. Patent Trial and Appeal Board.”.

(9) The items relating to sections 134 and 135 in the table of sections for chapter 12 are amended to read as follows:

“134. Appeal to the Patent Trial and Appeal Board.

“135. Derivation proceedings.”.

(10) The item relating to section 146 in the table of sections for chapter 13 is amended to read as follows:

“146. Civil action in case of derivation proceeding.”.

(11) CERTAIN APPEALS.—Subsection 1295(a)(4)(A) of title 28, United States Code, is amended to read as follows:

“(A) the Patent Trial and Appeal Board of the United States Patent and Trademark Office with respect to patent applications, derivation proceedings, and post-grant review proceedings, at the instance of an applicant for a patent or any party to a patent interference (commenced before the effective date provided in section 3(k) of the Patent Reform Act of 2007), derivation proceeding, or post-grant review proceeding, and any such appeal shall waive any right of such applicant or party to proceed under section 145 or 146 of title 35.”.

(k) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section—

(A) shall take effect 90 days after the date on which the President transmits to the Congress a finding that major patenting authorities have adopted a grace period having substantially the same effect as that contained under the amendments made by this section; and

(B) shall apply to all applications for patent that are filed on or after the effective date under subparagraph (A).

(2) DEFINITIONS.—In this subsection:

(A) MAJOR PATENTING AUTHORITIES.—The term “major patenting authorities” means at least the patenting authorities in Europe and Japan.

(B) GRACE PERIOD.—The term “grace period” means the 1-year period ending on the effective filing date of a claimed invention, during which disclosures of the subject matter by the inventor or a joint inventor, or by others who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor, do not qualify as prior art to the claimed invention.

(C) EFFECTIVE FILING DATE.—The term “effective filing date of a claimed invention” means, with respect to a patenting authority in another country, a date equivalent to the effective filing date of a claimed invention as defined in section 100(h) of title 35, United States Code, as added by subsection (a) of this section.

(1) REVIEW EVERY 7 YEARS.—Not later than the end of the 7-year period beginning on the effective date under subsection (k), and the end of every 7-year period thereafter, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this subsection referred to as the “Director”) shall—

(1) conduct a study on the effectiveness and efficiency of the amendments made by this section; and

(2) submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study, including any recommendations the Director has on amendments to the law and other recommendations of the Director with respect to the first-to-file system implemented under the amendments made by this section.

SEC. 4. INVENTOR'S OATH OR DECLARATION.

(a) INVENTOR'S OATH OR DECLARATION.—

(1) IN GENERAL.—Section 115 is amended to read as follows:

“§ 115. Inventor's oath or declaration

“(a) NAMING THE INVENTOR; INVENTOR'S OATH OR DECLARATION.—An application for patent that is filed under section 111(a), that commences the national stage under section 363, or that is filed by an inventor for an invention for which an application has previously been filed under this title by that inventor shall include, or be amended to include, the name of the inventor of any claimed invention in the application. Except as otherwise provided in this section, each individual who is the inventor or a

joint inventor of a claimed invention in an application for patent shall execute an oath or declaration in connection with the application.

“(b) **REQUIRED STATEMENTS.**—An oath or declaration by an individual under subsection (a) shall contain statements that—

“(1) the application was made or was authorized to be made by individual; and

“(2) the individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

“(c) **ADDITIONAL REQUIREMENTS.**—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

“(d) **SUBSTITUTE STATEMENT.**—

“(1) **IN GENERAL.**—In lieu of executing an oath or declaration under subsection (a), the applicant for patent may provide a substitute statement under the circumstances described in paragraph (2) and such additional circumstances that the Director may specify by regulation.

“(2) **PERMITTED CIRCUMSTANCES.**—A substitute statement under paragraph (1) is permitted with respect to any individual who—

“(A) is unable to file the oath or declaration under subsection (a) because the individual—

“(i) is deceased;

“(ii) is under legal incapacity; or

“(iii) cannot be found or reached after diligent effort; or

“(B) is under an obligation to assign the invention and has refused to make the oath or declaration required under subsection (a).

“(3) **CONTENTS.**—A substitute statement under this subsection shall—

“(A) identify the individual with respect to whom the statement applies;

“(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

“(C) contain any additional information, including any showing, required by the Director.

“(e) **MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.**—An individual who is under an obligation of assignment of an application for patent may include the required statements under subsections (b) and (c) in the assignment executed by the individual, in lieu of filing such statements separately.

“(f) **TIME FOR FILING.**—A notice of allowance under section 151 may be provided to an applicant for patent only if the applicant for patent has filed each required oath or declaration under subsection (a) or has filed a substitute statement under subsection (d) or recorded an assignment meeting the requirements of subsection (e).

“(g) **EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTE STATEMENT.**—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and that claims the benefit of an earlier filing date under section 120 or 365(c), if—

“(1) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

“(2) a substitute statement meeting the requirements of subsection (d) was filed in the earlier filed application with respect to the individual; or

“(3) an assignment meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

“(h) **SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.**—

“(1) **IN GENERAL.**—Any person making a statement required under this section may withdraw, replace, or otherwise correct the statement at

any time. If a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, such additional statements shall be filed in accordance with regulations established by the Director.

“(2) **SUPPLEMENTAL STATEMENTS NOT REQUIRED.**—If an individual has executed an oath or declaration under subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

“(3) **SAVINGS CLAUSE.**—No patent shall be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

“(i) **ACKNOWLEDGMENT OF PENALTIES.**—Any declaration or statement filed under this section must contain an acknowledgment that any willful false statement is punishable by fine or imprisonment, or both, under section 1001 of title 18.”

(2) **RELATIONSHIP TO DIVISIONAL APPLICATIONS.**—Section 121 is amended by striking “If a divisional application” and all that follows through “inventor.”

(3) **REQUIREMENTS FOR NONPROVISIONAL APPLICATIONS.**—Section 111(a) is amended—

(A) in paragraph (2)(C), by striking “by the applicant” and inserting “or declaration”;

(B) in the heading for paragraph (3), by striking “AND OATH”; and

(C) by striking “and oath” each place it appears.

(4) **CONFORMING AMENDMENT.**—The item relating to section 115 in the table of sections for chapter 11 is amended to read as follows:

“115. Inventor's oath or declaration.”

(b) **FILING BY OTHER THAN INVENTOR.**—Section 118 is amended to read as follows:

“§ 118. Filing by other than inventor

“A person to whom the inventor has assigned or is under an obligation to assign the invention may make an application for patent. A person who otherwise shows sufficient proprietary interest in the matter may make an application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is appropriate to preserve the rights of the parties. If the Director grants a patent on an application filed under this section by a person other than the inventor, the patent shall be granted to the real party in interest and upon such notice to the inventor as the Director considers to be sufficient.”

(c) **SPECIFICATION.**—Section 112 is amended—

(1) in the first paragraph—

(A) by striking “The specification” and inserting “(a) **IN GENERAL.**—The specification”; and

(B) by striking “of carrying out his invention” and inserting “or joint inventor of carrying out the invention”; and

(2) in the second paragraph—

(A) by striking “The specification” and inserting “(b) **CONCLUSION.**—The specification”; and

(B) by striking “applicant regards as his invention” and inserting “inventor or a joint inventor regards as the invention”;

(3) in the third paragraph, by striking “A claim” and inserting “(c) **FORM.**—A claim”;

(4) in the fourth paragraph, by striking “Subject to the following paragraph,” and inserting “(d) **REFERENCE IN DEPENDENT FORMS.**—Subject to subsection (e),”;

(5) in the fifth paragraph, by striking “A claim” and inserting “(e) **REFERENCE IN MULTIPLE DEPENDENT FORM.**—A claim”; and

(6) in the last paragraph, by striking “An element” and inserting “(f) **ELEMENT IN CLAIM FOR A COMBINATION.**—An element”.

(d) **EFFECTIVE DATE.**—The amendments made by this section—

(1) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act; and

(2) shall apply to any application for patent, or application for reissue patent, that is filed on or after the effective date under paragraph (1).

SEC. 5. RIGHT OF THE INVENTOR TO OBTAIN DAMAGES.

(a) **DAMAGES.**—Section 284 is amended—

(1) in the first paragraph, by striking “Upon” and inserting “(a) **IN GENERAL.**—Upon”;

(2) by designating the second undesignated paragraph as subsection (c);

(3) by inserting after subsection (a) (as designated by paragraph (1) of this subsection) the following:

“(b) **REASONABLE ROYALTY.**—

“(1) **IN GENERAL.**—An award pursuant to subsection (a) that is based upon a reasonable royalty shall be determined in accordance with this subsection. Based on the facts of the case, the court shall determine whether paragraph (2), (3), or (5) will be used by the court or the jury in calculating a reasonable royalty. The court shall identify the factors that are relevant to the determination of a reasonable royalty under the applicable paragraph, and the court or jury, as the case may be, shall consider only those factors in making the determination.

“(2) **RELATIONSHIP OF DAMAGES TO CONTRIBUTIONS OVER PRIOR ART.**—The court shall conduct an analysis to ensure that a reasonable royalty under subsection (a) is applied only to that economic value properly attributable to the patent's specific contribution over the prior art. The court shall exclude from the analysis the economic value properly attributable to the prior art, and other features or improvements, whether or not themselves patented, that contribute economic value to the infringing product or process.

“(3) **ENTIRE MARKET VALUE.**—Unless the claimant shows that the patent's specific contribution over the prior art is the predominant basis for market demand for an infringing product or process, damages may not be based upon the entire market value of the products or processes involved that satisfy that demand.

“(4) **COMBINATION INVENTIONS.**—For purposes of paragraphs (2) and (3), in the case of a combination invention the elements of which are present individually in the prior art, the patentee may show that the contribution over the prior art may include the value of the additional function resulting from the combination, as well as the enhanced value, if any, of some or all of the prior art elements resulting from the combination.

“(5) **OTHER FACTORS.**—In determining a reasonable royalty, the court may also consider, or direct the jury to consider, the terms of any nonexclusive marketplace licensing of the invention, where appropriate, as well as any other relevant factors under applicable law.”

(4) by amending subsection (c) (as designated by paragraph (1) of this subsection) to read as follows:

“(c) **WILLFUL INFRINGEMENT.**—

“(1) **INCREASED DAMAGES.**—A court that has determined that the infringer has willfully infringed a patent or patents may increase the damages up to three times the amount of damages found or assessed under subsection (a), except that increased damages under this paragraph shall not apply to provisional rights under section 154(d).

“(2) **PERMITTED GROUNDS FOR WILLFULNESS.**—A court may find that an infringer has willfully infringed a patent only if the patent owner presents clear and convincing evidence that—

“(A) after receiving written notice from the patentee—

“(i) alleging acts of infringement in a manner sufficient to give the infringer an objectively reasonable apprehension of suit on such patent, and

“(ii) identifying with particularity each claim of the patent, each product or process that the patent owner alleges infringes the patent, and the relationship of such product or process to such claim,

the infringer, after a reasonable opportunity to investigate, thereafter performed one or more of the alleged acts of infringement;

“(B) the infringer intentionally copied the patented invention with knowledge that it was patented; or

“(C) after having been found by a court to have infringed that patent, the infringer engaged in conduct that was not colorably different from the conduct previously found to have infringed the patent, and that resulted in a separate finding of infringement of the same patent.

“(3) LIMITATIONS ON WILLFULNESS.—(A) A court may not find that an infringer has willfully infringed a patent under paragraph (2) for any period of time during which the infringer had an informed good faith belief that the patent was invalid or unenforceable, or would not be infringed by the conduct later shown to constitute infringement of the patent.

“(B) An informed good faith belief within the meaning of subparagraph (A) may be established by—

“(i) reasonable reliance on advice of counsel;“(ii) evidence that the infringer sought to modify its conduct to avoid infringement once it had discovered the patent; or

“(iii) other evidence a court may find sufficient to establish such good faith belief.

“(C) The decision of the infringer not to present evidence of advice of counsel is not relevant to a determination of willful infringement under paragraph (2).

“(4) LIMITATION ON PLEADING.—Before the date on which a court determines that the patent in suit is not invalid, is enforceable, and has been infringed by the infringer, a patentee may not plead and a court may not determine that an infringer has willfully infringed a patent. The court’s determination of an infringer’s willfulness shall be made without a jury.”; and

(5) in the third undesignated paragraph, by striking “The court” and inserting “(d) EXPERT TESTIMONY.—The court”.

(b) DEFENSE TO INFRINGEMENT BASED ON EARLIER INVENTOR.—Section 273 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “of a method”; and

(ii) by striking “review period,” and inserting “review period; and”;

(B) in paragraph (2)(B), by striking the semicolon at the end and inserting a period; and

(C) by striking paragraphs (3) and (4);

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “for a method”; and

(ii) by striking “at least 1 year before the effective filing date of such patent, and” and all that follows through the period and inserting “and commercially used, or made substantial preparations for commercial use of, the subject matter before the effective filing date of the claimed invention.”;

(B) in paragraph (2)—

(i) by striking “The sale or other disposition of a useful end product produced by a patented method” and inserting “The sale or other disposition of subject matter that qualifies for the defense set forth in this section”; and

(ii) by striking “a defense under this section with respect to that useful end result” and inserting “such defense”;

(C) in paragraph (3)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(D) in paragraph (7), by striking “of the patent” and inserting “of the claimed invention”;

and

(3) by amending the heading to read as follows:

“§273. Special defenses to and exemptions from infringement”.

(c) TABLE OF SECTIONS.—The item relating to section 273 in the table of sections for chapter 28 is amended to read as follows:

“273. Special defenses to and exemptions from infringement.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

(e) REVIEW EVERY 7 YEARS.—Not later than the end of the 7-year period beginning on the date of the enactment of this Act, and the end of every 7-year period thereafter, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this subsection referred to as the “Director”) shall—

(1) conduct a study on the effectiveness and efficiency of the amendments made by this section; and

(2) submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study, including any recommendations the Director has on amendments to the law and other recommendations of the Director with respect to the right of the inventor to obtain damages for patent infringement.

SEC. 6. POST-GRANT PROCEDURES AND OTHER QUALITY ENHANCEMENTS.

(a) CITATION OF PRIOR ART.—

(1) IN GENERAL.—Section 301 is amended to read as follows:

“§301. Citation of prior art

“(a) IN GENERAL.—Any person at any time may cite to the Office in writing—

“(1) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent; or

“(2) written statements of the patent owner filed in a proceeding before a Federal court or the Patent and Trademark Office in which the patent owner takes a position on the scope of one or more patent claims.

“(b) SUBMISSIONS PART OF OFFICIAL FILE.—If the person citing prior art or written submissions under subsection (a) explains in writing the pertinence and manner of applying the prior art or written submissions to at least one claim of the patent, the citation of the prior art or written submissions (as the case may be) and the explanation thereof shall become a part of the official file of the patent.

“(c) PROCEDURES FOR WRITTEN STATEMENTS.—

“(1) SUBMISSION OF ADDITIONAL MATERIALS.—A party that submits written statements under subsection (a)(2) in a proceeding shall include any other documents, pleadings, or evidence from the proceeding that address the patent owner’s statements or the claims addressed by the written statements.

“(2) LIMITATION ON USE OF STATEMENTS.—Written statements submitted under subsection (a)(2) shall not be considered for any purpose other than to determine the proper meaning of the claims that are the subject of the request in a proceeding ordered pursuant to section 304 or 313. Any such written statements, and any materials submitted under paragraph (1), that are subject to an applicable protective order shall be redacted to exclude information subject to the order.

“(d) IDENTITY WITHHELD.—Upon the written request of the person citing prior art or written statements under subsection (a), the person’s identity shall be excluded from the patent file and kept confidential.”.

(b) REEXAMINATION.—Section 303(a) is amended to read as follows:

“(a) Within three months after the owner of a patent files a request for reexamination under

section 302, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Director’s own initiative, and at any time, the Director may determine whether a substantial new question of patentability is raised by patents and publications discovered by the Director, is cited under section 301, or is cited by any person other than the owner of the patent under section 302 or section 311. The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.”.

(c) CONDUCT OF INTER PARTES PROCEEDINGS.—Section 314 is amended—

(1) in the first sentence of subsection (a), by striking “conducted according to the procedures established for initial examination under the provisions of sections 132 and 133” and inserting “heard by an administrative patent judge in accordance with procedures which the Director shall establish”;

(2) in subsection (b), by striking paragraph (2) and inserting the following:

“(2) The third-party requester shall have the opportunity to file written comments on any action on the merits by the Office in the inter partes reexamination proceeding, and on any response that the patent owner files to such an action, if those written comments are received by the Office within 60 days after the date of service on the third-party requester of the Office action or patent owner response, as the case may be.”; and

(3) by adding at the end the following:

“(d) ORAL HEARING.—At the request of a third party requester or the patent owner, the administrative patent judge shall conduct an oral hearing, unless the judge finds cause lacking for such hearing.”.

(d) ESTOPPEL.—Section 315(c) is amended by striking “or could have raised”.

(e) REEXAMINATION PROHIBITED AFTER DISTRICT COURT DECISION.—Section 317(b) is amended—

(1) in the subsection heading, by striking “FINAL DECISION” and inserting “DISTRICT COURT DECISION”; and

(2) by striking “Once a final decision has been entered” and inserting “Once the judgment of the district court has been entered”.

(f) POST-GRANT OPPOSITION PROCEDURES.—

(1) IN GENERAL.—Part III is amended by adding at the end the following new chapter:

“CHAPTER 32—POST-GRANT REVIEW PROCEDURES

“Sec.

“321. Petition for post-grant review.

“322. Timing and bases of petition.

“323. Requirements of petition.

“324. Prohibited filings.

“325. Submission of additional information; showing of sufficient grounds.

“326. Conduct of post-grant review proceedings.

“327. Patent owner response.

“328. Proof and evidentiary standards.

“329. Amendment of the patent.

“330. Decision of the Board.

“331. Effect of decision.

“332. Settlement.

“333. Relationship to other pending proceedings.

“334. Effect of decisions rendered in civil action on post-grant review proceedings.

“335. Effect of final decision on future proceedings.

“336. Appeal.

“§321. Petition for post-grant review

“Subject to sections 322, 324, 332, and 333, a person who is not the patent owner may file with the Office a petition for cancellation seeking to institute a post-grant review proceeding to cancel as unpatentable any claim of a patent on any ground that could be raised under paragraph (2) or (3) of section 282(b) (relating to invalidity of the patent or any claim). The Director shall establish, by regulation, fees to be paid

by the person requesting the proceeding, in such amounts as the Director determines to be reasonable.

“§322. Timing and bases of petition

“A post-grant proceeding may be instituted under this chapter pursuant to a cancellation petition filed under section 321 only if—

“(1) the petition is filed not later than 12 months after the grant of the patent or issuance of a reissue patent, as the case may be; or

“(2) the patent owner consents in writing to the proceeding.

“§323. Requirements of petition

“A cancellation petition filed under section 321 may be considered only if—

“(1) the petition is accompanied by payment of the fee established by the Director under section 321;

“(2) the petition identifies the cancellation petitioner; and

“(3) the petition sets forth in writing the basis for the cancellation, identifying each claim challenged and providing such information as the Director may require by regulation, and includes copies of patents and printed publications that the cancellation petitioner relies upon in support of the petition; and

“(4) the petitioner provides copies of those documents to the patent owner or, if applicable, the designated representative of the patent owner.

“§324. Prohibited filings

“A post-grant review proceeding may not be instituted under section 322 if the petition for cancellation requesting the proceeding identifies the same cancellation petitioner and the same patent as a previous petition for cancellation filed under such section.

“§325. Submission of additional information; showing of sufficient grounds

“(a) IN GENERAL.—The cancellation petitioner shall file such additional information with respect to the petition as the Director may require. For each petition submitted under section 321, the Director shall determine if the written statement, and any evidence submitted with the request, establish that a substantial question of patentability exists for at least one claim in the patent. The Director may initiate a post-grant review proceeding if the Director determines that the information presented provides sufficient grounds to believe that there is a substantial question of patentability concerning one or more claims of the patent at issue.

“(b) NOTIFICATION; DETERMINATIONS NOT REVIEWABLE.—The Director shall notify the patent owner and each petitioner in writing of the Director’s determination under subsection (a), including a determination to deny the petition. The Director shall make that determination in writing not later than 60 days after receiving the petition. Any determination made by the Director under subsection (a), including whether or not to institute a post-grant review proceeding or to deny the petition, shall not be reviewable.

“§326. Conduct of post-grant review proceedings

“(a) IN GENERAL.—The Director shall prescribe regulations, in accordance with section 2(b)(2)—

“(1) establishing and governing post-grant review proceedings under this chapter and their relationship to other proceedings under this title;

“(2) establishing procedures for the submission of supplemental information after the petition for cancellation is filed; and

“(3) setting forth procedures for discovery of relevant evidence, including that such discovery shall be limited to evidence directly related to factual assertions advanced by either party in the proceeding, and the procedures for obtaining such evidence shall be consistent with the purpose and nature of the proceeding.

“(b) POST-GRANT REGULATIONS.—Regulations under subsection (a)(1)—

“(1) shall require that the final determination in a post-grant proceeding issue not later than one year after the date on which the post-grant review proceeding is instituted under this chapter, except that, for good cause shown, the Director may extend the 1-year period by not more than six months;

“(2) shall provide for discovery upon order of the Director;

“(3) shall provide for publication of notice in the Federal Register of the filing of a petition for post-grant review under this chapter, for publication of the petition, and documents, orders, and decisions relating to the petition, on the website of the Patent and Trademark Office, and for filings under seal exempt from publication requirements;

“(4) shall prescribe sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or unnecessary increase in the cost of the proceeding;

“(5) may provide for protective orders governing the exchange and submission of confidential information; and

“(6) shall ensure that any information submitted by the patent owner in support of any amendment entered under section 329 is made available to the public as part of the prosecution history of the patent.

“(c) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect on the economy, the integrity of the patent system, and the efficient administration of the Office.

“(d) CONDUCT OF PROCEEDING.—The Patent Trial and Appeal Board shall, in accordance with section 6(b), conduct each post-grant review proceeding authorized by the Director.

“§327. Patent owner response

“After a post-grant proceeding under this chapter has been instituted with respect to a patent, the patent owner shall have the right to file, within a time period set by the Director, a response to the cancellation petition. The patent owner shall file with the response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response.

“§328. Proof and evidentiary standards

“(a) IN GENERAL.—The presumption of validity set forth in section 282 shall not apply in a challenge to any patent claim under this chapter.

“(b) BURDEN OF PROOF.—The party advancing a proposition under this chapter shall have the burden of proving that proposition by a preponderance of the evidence.

“§329. Amendment of the patent

“(a) IN GENERAL.—In response to a challenge in a petition for cancellation, the patent owner may file one motion to amend the patent in one or more of the following ways:

“(1) Cancel any challenged patent claim.

“(2) For each challenged claim, propose a substitute claim.

“(3) Amend the patent drawings or otherwise amend the patent other than the claims.

“(b) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted only for good cause shown.

“(c) SCOPE OF CLAIMS.—An amendment under this section may not enlarge the scope of the claims of the patent or introduce new matter.

“§330. Decision of the Board

“If the post-grant review proceeding is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged and any new claim added under section 329.

“§331. Effect of decision

“(a) IN GENERAL.—If the Patent Trial and Appeal Board issues a final decision under sec-

tion 330 and the time for appeal has expired or any appeal proceeding has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable and incorporating in the patent by operation of the certificate any new claim determined to be patentable.

“(b) NEW CLAIMS.—Any new claim held to be patentable and incorporated into a patent in a post-grant review proceeding shall have the same effect as that specified in section 252 for reissued patents on the right of any person who made, purchased, offered to sell, or used within the United States, or imported into the United States, anything patented by such new claim, or who made substantial preparations therefor, before a certificate under subsection (a) of this section is issued.

“§332. Settlement

“(a) IN GENERAL.—A post-grant review proceeding shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Patent Trial and Appeal Board has issued a written decision before the request for termination is filed. If the post-grant review proceeding is terminated with respect to a petitioner under this paragraph, no estoppel shall apply to that petitioner. If no petitioner remains in the proceeding, the panel of administrative patent judges assigned to the proceeding shall terminate the proceeding.

“(b) AGREEMENT IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in the agreement or understanding, that is made in connection with or in contemplation of the termination of a post-grant review proceeding, must be in writing. A post-grant review proceeding as between the parties to the agreement or understanding may not be terminated until a copy of the agreement or understanding, including any such collateral agreements, has been filed in the Office. If any party filing such an agreement or understanding requests, the agreement or understanding shall be kept separate from the file of the post-grant review proceeding, and shall be made available only to Government agencies on written request, or to any person on a showing of good cause.

“§333. Relationship to other pending proceedings

“(a) IN GENERAL.—Notwithstanding subsection 135(a), sections 251 and 252, and chapter 30, the Director may determine the manner in which any reexamination proceeding, reissue proceeding, interference proceeding (commenced before the effective date provided in section 3(k) of the Patent Reform Act of 2007), derivation proceeding, or post-grant review proceeding, that is pending during a post-grant review proceeding, may proceed, including providing for stay, transfer, consolidation, or termination of any such proceeding.

“(b) STAYS.—The Director may stay a post-grant review proceeding if a pending civil action for infringement addresses the same or substantially the same questions of patentability.

“§334. Effect of decisions rendered in civil action on post-grant review proceedings

“If a final decision is entered against a party in a civil action arising in whole or in part under section 1338 of title 28 establishing that the party has not sustained its burden of proving the invalidity of any patent claim—

“(1) that party to the civil action and the privies of that party may not thereafter request a post-grant review proceeding on that patent claim on the basis of any grounds, under the provisions of section 321, which that party or the privies of that party raised or could have raised; and

“(2) the Director may not thereafter maintain a post-grant review proceeding that was requested, before the final decision was so entered, by that party or the privies of that party on the basis of such grounds.

“§335. Effect of final decision on future proceedings

“If a final decision under section 330 is favorable to the patentability of any original or new claim of the patent challenged by the cancellation petitioner, the cancellation petitioner may not thereafter, based on any ground that the cancellation petitioner raised during the post-grant review proceeding—

“(1) request or pursue a reexamination of such claim under chapter 31;

“(2) request or pursue a derivation proceeding with respect to such claim;

“(3) request or pursue a post-grant review proceeding under this chapter with respect to such claim; or

“(4) assert the invalidity of any such claim in any civil action arising in whole or in part under section 1338 of title 28.

“§336. Appeal

“A party dissatisfied with the final determination of the Patent Trial and Appeal Board in a post-grant proceeding under this chapter may appeal the determination under sections 141 through 144. Any party to the post-grant proceeding shall have the right to be a party to the appeal.”

(g) CONFORMING AMENDMENT.—The table of chapters for part III is amended by adding at the end the following:

“32. Post-Grant Review Proceedings ... 321”.

(h) REPEAL.—Section 4607 of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is repealed.

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments and repeal made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

(2) APPLICABILITY TO EX PARTE AND INTER PARTES PROCEEDINGS.—Notwithstanding any other provision of law, sections 301 and 311 through 318 of title 35, United States Code, as amended by this section, shall apply to any patent that issues before, on, or after the effective date under paragraph (1) from an original application filed on any date.

(3) APPLICABILITY TO POST-GRANT PROCEEDINGS.—The amendments made by subsection (f) shall apply to patents issued on or after the effective date under paragraph (1).

(j) REGULATIONS.—

(1) REGULATIONS.—The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this subsection referred to as the “Director”) shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 32 of title 35, United States Code, as added by subsection (f) of this section.

(2) PENDING INTERFERENCES.—The Director shall determine the procedures under which interferences under title 35, United States Code, that are commenced before the effective date under subsection (i)(1) are to proceed, including whether any such interference is to be dismissed without prejudice to the filing of a cancellation petition for a post-grant opposition proceeding under chapter 32 of title 35, United States Code, or is to proceed as if this Act had not been enacted. The Director shall include such procedures in regulations issued under paragraph (1).

SEC. 7. DEFINITIONS; PATENT TRIAL AND APPEAL BOARD.

(a) DEFINITIONS.—Section 100 (as amended by this Act) is further amended by adding at the end the following:

“(k) The term ‘cancellation petitioner’ means the real party in interest requesting cancellation

of any claim of a patent under chapter 32 of this title and the privies of the real party in interest.”

(a) PATENT TRIAL AND APPEAL BOARD.—Section 6 is amended to read as follows:

“§6. Patent Trial and Appeal Board

“(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Director. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

“(b) DUTIES.—The Patent Trial and Appeal Board shall—

“(1) on written appeal of an applicant, review adverse decisions of examiners upon application for patents;

“(2) on written appeal of a patent owner, review adverse decisions of examiners upon patents in reexamination proceedings under chapter 30;

“(3) review appeals by patent owners and third-party requesters under section 315;

“(4) determine priority and patentability of invention in derivation proceedings under section 135(a); and

“(5) conduct post-grant opposition proceedings under chapter 32.

Each appeal and derivation proceeding shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director. Only the Patent Trial and Appeal Board may grant rehearings. The Director shall assign each post-grant review proceeding to a panel of 3 administrative patent judges. Once assigned, each such panel of administrative patent judges shall have the responsibilities under chapter 32 in connection with post-grant review proceedings.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 8. STUDY AND REPORT ON REEXAMINATION PROCEEDINGS.

The Under Secretary of Commerce for Intellectual Property and Director of the Patent and Trademark Office shall, not later than 2 years after the date of the enactment of this Act—

(1) conduct a study of the effectiveness and efficiency of the different forms of proceedings available under title 35, United States Code, for the reexamination of patents; and

(2) submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study, including any of the Director's suggestions for amending the law, and any other recommendations the Director has with respect to patent reexamination proceedings.

SEC. 9. SUBMISSIONS BY THIRD PARTIES AND OTHER QUALITY ENHANCEMENTS.

(a) PUBLICATION.—Section 122(b)(2) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) by striking “(A) An application” and inserting “An application”; and

(B) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively.

(b) PREISSUANCE SUBMISSIONS BY THIRD PARTIES.—Section 122 is amended by adding at the end the following:

“(e) PREISSUANCE SUBMISSIONS BY THIRD PARTIES.—

“(1) IN GENERAL.—Any person may submit for consideration and inclusion in the record of a patent application, any patent, published pat-

ent application, or other publication of potential relevance to the examination of the application, if such submission is made in writing before the earlier of—

“(A) the date a notice of allowance under section 151 is mailed in the application for patent; or

“(B) either—

“(i) 6 months after the date on which the application for patent is published under section 122, or

“(ii) the date of the first rejection under section 132 of any claim by the examiner during the examination of the application for patent, whichever occurs later.

“(2) OTHER REQUIREMENTS.—Any submission under paragraph (1) shall—

“(A) set forth a concise description of the asserted relevance of each submitted document;

“(B) be accompanied by such fee as the Director may prescribe; and

“(C) include a statement by the submitter affirming that the submission was made in compliance with this section.”

(c) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act; and

(2) shall apply to any application for patent filed before, on, or after the effective date under paragraph (1).

SEC. 10. TAX PLANNING METHODS NOT PATENTABLE.

(a) IN GENERAL.—Section 101 is amended—

(1) by striking “Whoever” and inserting “(a) PATENTABLE INVENTIONS.—Whoever”; and

(2) by adding at the end the following:

“(b) TAX PLANNING METHODS.—

“(1) UNPATENTABLE SUBJECT MATTER.—A patent may not be obtained for a tax planning method.

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“(A) the term ‘tax planning method’ means a plan, strategy, technique, or scheme that is designed to reduce, minimize, or defer, or has, when implemented, the effect of reducing, minimizing, or deferring, a taxpayer's tax liability, but does not include the use of tax preparation software or other tools used solely to perform or model mathematical calculations or prepare tax or information returns;

“(B) the term ‘taxpayer’ means an individual, entity, or other person (as defined in section 7701 of the Internal Revenue Code of 1986) that is subject to taxation directly, is required to prepare a tax return or information statement to enable one or more other persons to determine their tax liability, or is otherwise subject to a tax law;

“(C) the terms ‘tax’, ‘tax laws’, ‘tax liability’, and ‘taxation’ refer to any Federal, State, county, city, municipality, or other governmental levy, assessment, or imposition, whether measured by income, value, or otherwise; and

“(D) the term ‘State’ means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”

(b) APPLICABILITY.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act;

(2) shall apply to any application for patent or application for a reissue patent that is—

(A) filed on or after the date of the enactment of this Act; or

(B) filed before that date if a patent or reissue patent has not been issued pursuant to the application as of that date; and

(3) shall not be construed as validating any patent issued before the date of the enactment of this Act for an invention described in section 101(b) of title 35, United States Code, as amended by this section.

SEC. 11. VENUE AND JURISDICTION.

(a) VENUE FOR PATENT CASES.—Section 1400 of title 28, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) Notwithstanding section 1391 of this title, in any civil action arising under any Act of Congress relating to patents, a party shall not manufacture venue by assignment, incorporation, or otherwise to invoke the venue of a specific district court.

“(c) Notwithstanding section 1391 of this title, any civil action for patent infringement or any action for declaratory judgment may be brought only in a judicial district—

“(1) where the defendant has its principal place of business or in the location or place in which the defendant is incorporated, or, for foreign corporations with a United States subsidiary, where the defendant's primary United States subsidiary has its principal place of business or in the location or place in which the defendant's primary United States subsidiary is incorporated;

“(2) where the defendant has committed a substantial portion of the acts of infringement and has a regular and established physical facility that the defendant controls and that constitutes a substantial portion of the operations of the defendant;

“(3) where the primary plaintiff resides, if the primary plaintiff in the action is an institution of higher education as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); or

“(4) where the plaintiff resides, if the plaintiff or a subsidiary of the plaintiff has an established physical facility in such district dedicated to research, development, or manufacturing that is operated by full-time employees of the plaintiff or such subsidiary, or if the sole plaintiff in the action is an individual inventor who is a natural person and who qualifies at the time such action is filed as a micro entity under section 124 of title 35.

“(d) If the plaintiff brings a civil action for patent infringement in a judicial district under subsection (c), the district court may transfer that action to any other district or division where—

“(1) the defendant has substantial evidence or witnesses; and

“(2) venue would be appropriate under section 1391 of this title, if such transfer would be appropriate under section 1404 of this title.”.

(b) **INTERLOCUTORY APPEALS.**—Subsection (c) of section 1292 of title 28, United States Code, is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “; and”; and

(3) by adding at the end the following:

“(3) of an appeal from an interlocutory order or decree determining construction of claims in a civil action for patent infringement under section 271 of title 35.

Application for an appeal under paragraph (3) shall be made to the court within 10 days after entry of the order or decree. The district court shall have discretion whether to approve the application and, if so, whether to stay proceedings in the district court during pendency of the appeal.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any action commenced on or after the date of the enactment of this Act.

SEC. 12. ADDITIONAL INFORMATION; INEQUITABLE CONDUCT AS DEFENSE TO INFRINGEMENT.

(a) **DISCLOSURE REQUIREMENTS FOR APPLICANTS.**—

(1) **IN GENERAL.**—Chapter 11 is amended by adding at the end the following new section:

“§ 123. Additional information

“(a) **IN GENERAL.**—The Director shall, by regulation, require that applicants submit a search report and other information and analysis relevant to patentability. An application shall be regarded as abandoned if the applicant fails to submit the required search report, information,

and analysis in the manner and within the time period prescribed by the Director.

“(b) **EXCEPTION FOR MICRO ENTITIES.**—Applications from micro-entities shall not be subject to the requirements of regulations issued under subsection (a).

“§ 124. Micro entities

“(a) **DEFINITION.**—For purposes of this title, the term ‘micro entity’ means an applicant for patent who makes a certification under either subsection (b) or (c).

“(b) **UNASSIGNED APPLICATION.**—A certification under this subsection is a certification by each inventor named in the application that the inventor—

“(1) qualifies as a small entity as defined in regulations issued by the Director;

“(2) has not been named on five or more previously filed patent applications;

“(3) has not assigned, granted, or conveyed, and is not under an obligation by contract or law to assign, grant, or convey, a license or any other ownership interest in the application; and

“(4) does not have a gross income, as defined in section 61(a) of the Internal Revenue Code of 1986, exceeding 2.5 times the median household income, as reported by the Bureau of the Census, for the most recent calendar year preceding the calendar year in which the examination fee is being paid.

“(c) **ASSIGNED APPLICATION.**—A certification under this subsection is a certification by each inventor named in the application that the inventor—

“(1) qualifies as a small entity as defined in regulations issued by the Director and meets the requirements of subsection (b)(4);

“(2) has not been named on five or more previously filed patent applications; and

“(3) has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the application to an entity that has five or fewer employees and has a gross taxable income, as defined in section 61(a) of the Internal Revenue Code of 1986, that does not exceed 2.5 times the median household income, as reported by the Bureau of the Census, for the most recent calendar year preceding the calendar year in which the examination fee is being paid.”.

(2) **CONFORMING AMENDMENT.**—The table of sections for chapter 11 is amended by adding at the end the following new items:

“123. Additional information.

“124. Micro entities.”.

(b) **INEQUITABLE CONDUCT AS DEFENSE TO INFRINGEMENT.**—Section 282 is amended—

(1) in the first undesignated paragraph, by striking “A patent” and inserting “(a) **IN GENERAL.**—A patent”;

(2) in the second undesignated paragraph—

(A) by striking “The following” and inserting “(b) **DEFENSES.**—The following”; and

(B) by striking the comma at the end of each of paragraphs (1), (2), and (3) and inserting a period;

(3) in the third undesignated paragraph—

(A) by striking “In actions” and inserting “(d) **NOTICE OF ACTIONS; PLEADING.**—In actions”;

(B) by inserting after the second sentence the following: “In an action involving any allegation of inequitable conduct under subsection (c), the party asserting this defense or claim shall comply with the pleading requirements set forth in Rule 9(b) of the Federal Rules of Civil Procedure.”; and

(C) by striking “Invalidity” and inserting “(e) **EXTENSION OF PATENT TERM.**—Invalidity”; and

(4) by inserting after subsection (b), as designated by paragraph (2) of this subsection, the following:

“(c) **INEQUITABLE CONDUCT.**—

“(1) **DEFENSE.**—A patent may be held to be unenforceable, or other remedy imposed under paragraph (3), for inequitable conduct only if it

is established, by clear and convincing evidence, that—

“(A) the patentee, its agents, or another person with a duty of disclosure to the Office, with the intent to mislead or deceive the patent examiner, misrepresented or failed to disclose material information concerning a matter or proceeding before the Office; and

“(B) in the absence of such deception, the Office, acting reasonably, would, on the record before it, have made a prima facie finding of unpatentability.

“(2) **INTENT.**—In order to prove intent to mislead or deceive under paragraph (1), specific facts beyond materiality of the information submitted or not disclosed must be proven that support an inference of intent to mislead or deceive the Patent and Trademark Office. Facts support an inference of intent if they show circumstances that indicate conscious or deliberate behavior on the part of the patentee, its agents, or another person with a duty of disclosure to the Office, to not disclose material information or to submit materially false information.

“(3) **REMEDY.**—Upon a finding of inequitable conduct, the court shall balance the equities to determine which of the following remedies to impose:

“(A) Denying equitable relief to the patent holder and limiting the remedy for infringement to damages.

“(B) Holding the claims-in-suit, or the claims in which inequitable conduct occurred, unenforceable.

“(C) Holding the patent unenforceable.

“(D) Holding the claims of a related patent unenforceable.

“(4) **ATTORNEY MISCONDUCT.**—Upon a finding of inequitable conduct, if there is evidence that the conduct can be attributable to a person or persons authorized to practice before the Office, the court shall refer the matter to the Office for appropriate disciplinary action under section 32, and shall order the parties to preserve and make available to the Office any materials that may be relevant to the determination under section 32.”.

(c) **EFFECTIVE DATE.**—

(1) **SUBSECTION (a).**—The amendments made by subsection (a)—

(A) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act; and

(B) shall apply to any application for patent filed on or after the effective date under subparagraph (A).

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to any civil action commenced on or after the date of the enactment of this Act.

SEC. 13. BEST MODE REQUIREMENT.

Section 282(b) (as designated by section 12(b) of this Act) is amended by striking paragraph (3) and inserting the following:

“(3) Invalidity of the patent or any claim in suit for failure to comply with—

“(A) any requirement of section 112 of this title, other than the requirement that the specification shall set forth the best mode contemplated by the inventor of carrying out his invention; or

“(B) any requirement of section 251 of this title.”.

SEC. 14. REGULATORY AUTHORITY.

(a) **REGULATORY AUTHORITY.**—Section 2(c) is amended by adding at the end the following:

“(6) The powers granted under paragraph (2) of subsection (b) include the authority to promulgate regulations to ensure the quality and timeliness of applications and their examination, including specifying circumstances under which an application for patent may claim the benefit under sections 120, 121 and 365(c) of the filing date of a prior filed application for patent.”.

(b) **CLARIFICATION.**—The amendment made by subsection (a) clarifies the scope of power granted to the United States Patent and Trademark

Office by paragraph (2) of section 2(b) of title 35, United States Code, as in effect since the enactment of Public Law 106-113.

SEC. 15. TECHNICAL AMENDMENTS.

(a) **JOINT INVENTIONS.**—Section 116 is amended—

(1) in the first paragraph, by striking “When” and inserting “(a) JOINT INVENTIONS.—When”;

(2) in the second paragraph, by striking “If a joint inventor” and inserting “(b) OMITTED INVENTOR.—If a joint inventor”;

(3) in the third paragraph, by striking “Whenever” and inserting “(c) CORRECTION OF ERRORS IN APPLICATION.—Whenever”.

(b) **FILING OF APPLICATION IN FOREIGN COUNTRY.**—Section 184 is amended—

(1) in the first paragraph, by striking “Except when” and inserting “(a) FILING IN FOREIGN COUNTRY.—Except when”;

(2) in the second paragraph, by striking “The term” and inserting “(b) APPLICATION.—The term”;

(3) in the third paragraph, by striking “The scope” and inserting “(c) SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope”.

(c) **REISSUE OF DEFECTIVE PATENTS.**—Section 251 is amended—

(1) in the first paragraph, by striking “Whenever” and inserting “(a) IN GENERAL.—Whenever”;

(2) in the second paragraph, by striking “The Director” and inserting “(b) MULTIPLE REISSUED PATENTS.—The Director”;

(3) in the third paragraph, by striking “The provisions” and inserting “(c) APPLICABILITY OF THIS TITLE.—The provisions”;

(4) in the last paragraph, by striking “No reissued patent” and inserting “(d) REISSUE PATENT ENLARGING SCOPE OF CLAIMS.—No reissued patent”.

(d) **EFFECT OF REISSUE.**—Section 253 is amended—

(1) in the first paragraph, by striking “Whenever” and inserting “(a) IN GENERAL.—Whenever”;

(2) in the second paragraph, by striking “In like manner” and inserting “(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a).”.

(e) **CORRECTION OF NAMED INVENTOR.**—Section 256 is amended—

(1) in the first paragraph, by striking “Whenever” and inserting “(a) CORRECTION.—Whenever”;

(2) in the second paragraph, by striking “The error” and inserting “(b) PATENT VALID IF ERROR CORRECTED.—The error”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 16. STUDY OF SPECIAL MASTERS IN PATENT CASES.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall conduct a study of, and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on, the use of special masters in patent litigation who are appointed in accordance with Rule 53 of the Federal Rules of Civil Procedure.

(b) **OBJECTIVE.**—In conducting the study under subsection (a), the Director shall consider whether the use of special masters has been beneficial in patent litigation and what, if any, program should be undertaken to facilitate the use by the judiciary of special masters in patent litigation.

(c) **FACTORS TO CONSIDER.**—In conducting the study under subsection (a), the Director, in consultation with the Federal Judicial Center, shall consider—

(1) the basis upon which courts appoint special masters under Rule 53(b) of the Federal Rules of Civil Procedure;

(2) the frequency with which special masters have been used by the courts;

(3) the role and powers special masters are given by the courts;

(4) the subject matter at issue in cases that use special masters;

(5) the impact on court time and costs in cases where a special master is used as compared to cases where no special master is used;

(6) the legal and technical training and experience of special masters;

(7) whether the use of special masters has an impact on the reversal rate of district court decisions at the Court of Appeals for the Federal Circuit; and

(8) any other factors that the Director believes would assist in gauging the effectiveness of special masters in patent litigation.

SEC. 17. RULE OF CONSTRUCTION.

The enactment of section 102(b)(3) of title 35, United States Code, under section (3)(b) of this Act is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108-453; the “CREATE Act”), the amendments of which are stricken by section 3(c) of this Act. The United States Patent and Trademark Office shall administer section 102(b)(3) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the Patent and Trademark Office.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110-319. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. CONYERS

The Acting CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110-319.

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. CONYERS: Page 3, strike lines 22 through 25.

Page 3, line 21, insert quotation marks and a second period after “patent.”.

Page 10, strike line 24 and all that follows through page 11, line 2, and insert the following:

(i) **ACTION FOR CLAIM TO PATENT ON DERIVED INVENTION.**—Section 135 is amended to read as follows:

“§ 135. Derivation proceedings”.

Page 11, lines 14 and 15, strike “Any such request—” and insert the following:

“(B) REQUIREMENTS FOR REQUEST.—Any request under subparagraph (A)—”.

Page 12, line 3, strike “(B)” and insert “(C)”.

Page 12, line 8, strike “under section 101”.

Page 13, line 16, strike the quotation marks and second period.

Page 13, insert the following after line 16: “(b) SETTLEMENT.—Parties to a derivation proceeding may terminate the proceeding by filing a written statement reflecting the agreement of the parties as to the correct in-

ventors of the claimed invention in dispute. Unless the Patent Trial and Appeal Board finds the agreement to be inconsistent with the evidence of record, it shall take action consistent with the agreement. Any written settlement or understanding of the parties shall be filed with the Director. At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents or applications, and shall be made available only to Government agencies on written request, or to any person on a showing of good cause.

“(c) **ARBITRATION.**—Parties to a derivation proceeding, within such time as may be specified by the Director by regulation, may determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9 to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Director, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Director from determining patentability of the invention involved in the derivation proceeding.”.

Page 13, strike line 17 and all that follows through page 15, line 8.

Page 17, line 10, insert “with respect to an application for patent filed” after “commenced”.

Page 17, lines 21 and 22, strike “transmits to the Congress a finding” and insert “issues an Executive order containing the President’s finding”.

Page 18, insert the following after line 23:

(3) **RETENTION OF INTERFERENCE PROCEDURES WITH RESPECT TO APPLICATIONS FILED BEFORE EFFECTIVE DATE.**—In the case of any application for patent that is filed before the effective date under paragraph (1)(A), the provisions of law repealed or amended by subsections (h), (i), and (j) shall apply to such application as such provisions of law were in effect on the day before such effective date.

Page 21, lines 24 and 25, strike “is under an obligation of assignment of” and insert “has assigned rights in”.

Page 24, strike line 23 and all that follows through page 25, line 13 and redesignate the succeeding subsections accordingly.

Page 27, line 13, strike “(5)” and insert “(4)”.

Page 27, line 21, strike “The court” and insert “Upon a showing to the satisfaction of the court that a reasonable royalty should be based on a portion of the value of the infringing product or process, the court”.

Page 28, lines 5 and 6, strike “Unless the claimant shows” and insert “Upon a showing to the satisfaction of the court”.

Page 28, line 9, strike “may not” and insert “may”.

Page 28, strike line 12 and all that follows through page 29, line 2, and insert the following:

“(4) **OTHER FACTORS.**—If neither paragraph (2) or (3) is appropriate for determining a reasonable royalty, the court may consider, or direct the jury to consider, the terms of any nonexclusive marketplace licensing of the invention, where appropriate, as well as any other relevant factors under applicable law.

“(5) **COMBINATION INVENTIONS.**—For purposes of paragraphs (2) and (3), in the case of a combination invention the elements of which are present individually in the prior art, the patentee may show that the contribution over the prior art may include the value of the additional function resulting

from the combination, as well as the enhanced value, if any, of some or all of the prior art elements resulting from the combination.”;

Page 31, line 17, strike “The court’s” and all that follows through “jury.” on line 19.

Page 31, strike line 23 and all that follows through the matter following line 17 on page 33 and insert the following:

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than June 30, 2009, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this subsection referred to as the “Director”) shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the findings and recommendations of the Director on the operation of prior user rights in selected countries in the industrialized world. The report shall include the following:

(1) A comparison between the patent laws of the United States and the laws of other industrialized countries, including the European Union, Japan, Canada, and Australia.

(2) An analysis of the effect of prior user rights on innovation rates in the selected countries.

(3) An analysis of the correlation, if any, between prior user rights and start-up enterprises and the ability to attract venture capital to start new companies.

(4) An analysis of the effect of prior user rights, if any, on small businesses, universities, and individual inventors.

(5) An analysis of any legal or constitutional issues that arise from placing elements of trade secret law, in the form of prior user rights, in patent law.

In preparing the report, the Director shall consult with the Secretary of State and the Attorney General of the United States.

Page 33, line 18, strike “(d)” and insert “(c)”.

Page 33, line 21, strike “(e)” and insert “(d)”.

Page 36, lines 22 and 23, strike “cited by or to the Office or”.

Page 39, line 10, strike “grant of the patent or issuance of” and insert “issuance of the patent or”.

Page 39, strike line 21 and all that follows through page 40, line 2 and insert the following:

“(3) for each claim sought to be canceled, the petition sets forth in writing the basis for cancellation and provides the evidence in support thereof, including copies of patents and printed publications, or written testimony of a witness attested to under oath or declaration by the witness, or any other information that the Director may require by regulation; and

Page 40, lines 3 and 4, strike “those documents” and insert “the petition, including any evidence submitted with the petition and any other information submitted under paragraph (3).”.

Page 41, add the following after line 25: In carrying out paragraph (3), the Director shall bear in mind that discovery must be in the interests of justice.

Page 44, lines 23 and 24, strike “with respect to” and insert “addressing”.

Page 46, line 1, strike “of administrative patent judges”.

Page 46, line 18, strike “pending”.

Page 46, line 23, insert “with respect to an application for patent filed” after “commenced”.

Page 47, line 5, insert “of a patent” after “infringement”.

Page 47, line 7, insert after “patentability” the following: “raised against the patent in a petition for post-grant review”.

Page 47, insert the following after line 7:

“(c) EFFECT OF COMMENCEMENT OF PROCEEDING.—The commencement of a post-grant review proceeding—

“(1) shall not limit in any way the right of the patent owner to commence an action for infringement of the patent; and

“(2) shall not be cited as evidence relating to the validity of any claim of the patent in any proceeding before a court or the International Trade Commission concerning the patent.

Page 48, line 14, strike “or”.

Page 48, line 17, strike the period and insert “; or”.

Page 48, insert the following after line 17:

“(5) assert the invalidity of any such claim in defense to an action brought under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

Page 49, line 18, strike “subsection (f)” and insert “subsections (f) and (g)”.

Page 49, strike lines 21 and 22 and insert the following:

(j) REGULATIONS.—The Under Secretary of Page 49, lines 23 through 25, and page 50, lines 1 through 4, move the text 2 ems to the left.

Page 50, strike lines 5 through 15.

Page 51, lines 3 through 5, strike “The Director, the Deputy, the Commissioner for Patents, and the Commissioner for Trademarks, and the” and insert “The”.

Page 51, line 9, strike “Director” and insert “Secretary of Commerce”.

Page 54, line 18, strike “and”.

Page 54, line 21, strike the 2 periods and quotation marks and insert “; and”.

Page 54, insert the following after line 21: “(D) identify the real party-in-interest making the submission.”.

Page 57, strike line 12 and all that follows through page 59, line 7, and insert the following:

“(b) In any civil action arising under any Act of Congress relating to patents, a party shall not manufacture venue by assignment, incorporation, joinder, or otherwise primarily to invoke the venue of a specific district court.

“(c) Notwithstanding section 1391 of this title, except as provided in paragraph (3) of this subsection, any civil action for patent infringement or any action for declaratory judgment relating to a patent may be brought only in a judicial district—

“(1) where the defendant has its principal place of business or is incorporated, or, for foreign corporations with a United States subsidiary, where the defendant’s primary United States subsidiary has its principal place of business or is incorporated;

“(2) where the defendant has committed a substantial portion of the acts of infringement and has a regular and established physical facility that the defendant controls and that constitutes a substantial portion of the defendant’s operations;

“(3) for cases involving only foreign defendants with no United States subsidiary, according to section 1391(d) of this title;

“(4) where the plaintiff resides, if the plaintiff is—

“(A) an institution of higher education as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. section 1001(a)); or

“(B) a nonprofit organization that—

“(i) is described in section 501(c)(3) of the Internal Revenue Code of 1986;

“(ii) is exempt from taxation under section 501(a) of such Code; and

“(iii) serves primarily as the patent and licensing organization for an institution of higher education as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a));

“(5) where the plaintiff or a subsidiary has a place of business that is engaged in substantial—

“(A) research and development,

“(B) manufacturing activities, or

“(C) management of research and development or manufacturing activities,

related to the patent or patents in dispute;

“(6) where the plaintiff resides if the plaintiff is named as inventor or co-inventor on the patent and has not assigned, granted, conveyed, or licensed, and is under no obligation to assign, grant, convey, or license, any rights in the patent or in enforcement of the patent, including the results of any such enforcement; or

“(7) where any of the defendants has substantial evidence and witnesses if there is no other district in which the action may be brought under this section.”.

Page 60, strike lines 1 through 3 and insert the following:

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any civil action commenced on or after such date of enactment.

(2) PENDING CASES.—Any case commenced in a United States district court on or after September 7, 2007, in which venue is improper under section 1400 of title 28, United States Code, as amended by this section, shall be transferred pursuant to section 1404 of such title, unless—

(A) one or more substantive rulings on the merits, or other substantial litigation, has occurred; and

(B) the court finds that transfer would not serve the interests of justice.

Page 60, line 10, strike “shall” and insert “may”.

Page 60, line 12, insert after “patentability.” the following: “If the Director requires a search report to be submitted by applicants, and an applicant does not itself perform the search, the search must be performed by one or more individuals who are United States citizens or by a commercial entity that is organized under the laws of the United States or any State and employs United States citizens to perform such searches.”.

Page 60, line 14, strike “the required search report, information, and” and insert “a search report, information, or an”.

Page 60, line 16, add after the period the following: “Any search report required by the Director may not substitute in any way for a search by an examiner of the prior art during examination.”.

Page 63, strike line 19 and all that follows through line 15 on page 65 and insert the following:

“(1) DEFENSE.—One or more claims of a patent may be held to be unenforceable, or other remedy imposed under paragraph (4), for inequitable conduct only if it is established, by clear and convincing evidence, that a person with a duty of disclosure to the Office, with the intent to mislead or deceive the patent examiner, misrepresented or failed to disclose material information to the examiner during examination of the patent.

“(2) MATERIALITY.—

“(A) IN GENERAL.—Information is material under this section if—

“(i) a reasonable examiner would have made a *prima facie* finding of unpatentability, or maintained a finding of unpatentability, of one or more of the patent claims based on the information, and the information is not cumulative to information already of record or previously considered by the Office; or

“(ii) information that is otherwise material refutes or is inconsistent with a position the applicant takes in opposing a rejection of the claim or in asserting an argument of patentability.

“(B) PRIMA FACIE FINDING.—A *prima facie* finding of unpatentability under this section is shown if a reasonable examiner, based on

a preponderance of the evidence, would conclude that the claim is unpatentable based on the information misrepresented or not disclosed, when that information is considered alone or in conjunction with other information or record. In determining whether there is a *prima facie* finding of unpatentability, each term in the claim shall be given its broadest reasonable construction consistent with the specification, and rebuttal evidence shall not be considered.

“(3) INTENT.—To prove a person with a duty of disclosure to the Office intended to mislead or deceive the examiner under paragraph (1), specific facts beyond materiality of the information misrepresented or not disclosed must be proven that establish the intent of the person to mislead or deceive the examiner by the actions of the person. Facts support an intent to mislead or deceive if they show circumstances that indicate conscious or deliberate behavior on the part of the person to not disclose material information or to submit false material information in order to mislead or deceive the examiner. Circumstantial evidence may be used to prove that a person had the intent to mislead or deceive the examiner under paragraph (1).

“(4) REMEDY.—Upon a finding of inequitable conduct, the court shall balance the equities to determine which of the following remedies to impose:

“(A) Denying equitable relief to the patent holder and limiting the remedy for infringement to reasonable royalties.

“(B) Holding the claims-in-suit, or the claims in which inequitable conduct occurred, unenforceable.

“(C) Holding the patent unenforceable.

“(D) Holding the claims of a related patent unenforceable.

“(5) ATTORNEY MISCONDUCT.—Upon a finding of inequitable conduct, if there is evidence that the conduct is attributable to a person or persons authorized to practice before the Office, the court shall refer the matter to the Office for appropriate disciplinary action under section 32, and shall order the parties to preserve and make available to the Office any materials that may be relevant to the determination under section 32.”

Page 69, line 17, strike “180 days” and insert “1 year”.

Page 71, insert the following after line 6 and redesignate the succeeding section accordingly:

SEC. 17. STUDY ON WORKPLACE CONDITIONS.

The Comptroller General shall, not later than 2 years after the date of the enactment of this Act—

(1) conduct a study of workplace conditions for the examiner corps of the United States Patent and Trademark Office, including the effect, if any, of this Act and the amendments made by this Act on—

(A) recruitment, retention, and promotion of employees; and

(B) workload, quality assurance, and employee grievances; and

(2) submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study, including any suggestions for improving workplace conditions, together with any other recommendations that the Comptroller General has with respect to patent reexamination proceedings.

Page 71, add the following after line 19:

SEC. 19. SEVERABILITY.

If any provision of this Act or of any amendment or repeals made by this Act, or the application of such a provision to any person or circumstance, is held to be invalid or unenforceable, the remainder of this Act and the amendments and repeals made by

this Act, and the application of this Act and such amendments and repeals to any other person or circumstance, shall not be affected by such holding.

The Acting CHAIRMAN. Pursuant to House Resolution 636, the gentleman from Michigan (Mr. CONYERS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Michigan.

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Mr. Chairman, parliamentary inquiry.

The Acting CHAIRMAN. Does the gentleman from Michigan yield for a parliamentary inquiry?

Mr. CONYERS. Yes, of course.

The Acting CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROHRABACHER. Does the person who controls the time against the manager's amendment have to be against the manager's amendment?

The Acting CHAIRMAN. It is reserved for a Member in opposition to the amendment.

Mr. ROHRABACHER. Who controls the time in opposition?

The Acting CHAIRMAN. No one has claimed time in opposition to the amendment yet.

Mr. ROHRABACHER. I would suggest that whoever does control the time should be in opposition, and if Mr. SMITH, who I respect greatly, does not oppose the manager's amendment, he should not be in control of the debate against the manager's amendment, and I would note that there are others of us who would like to have that.

The Acting CHAIRMAN. The gentleman from Michigan is recognized.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

I rise in support of the manager's amendment which is, of course, very bipartisan and which makes further changes to the underlying bill.

Now, this is a work in progress. The reason it came up so late in the afternoon yesterday in the Rules Committee is we were making changes to accommodate the minority side, and so even now the manager's amendment is a piece of work that will not be concluded until we come out of conference, and I'm sure Mr. BERMAN will have some comments to make about that.

I want anyone who has not seen the manager's amendment or wants to review it, even as it's discussed on the floor today, to please come to my seat, and I will be happy to provide them with a copy of it.

Well, what does it do? We deal with damages, the most controversial provision of the bill, with labor, with the universities, with inequitable conduct, and additional changes that will be made.

For workers and inventors, how do we help them? Well, there was concern that in our attempt to simplify the assignment procedures, we cut the inventor out of the process. We've ensured

that changes to applications will require inventor involvement.

And also, there was a fear about working environment at the PTO. We inquired of the Government Accountability Office to conduct a study of examining work conditions.

And finally, the examiners themselves were concerned about the quality submission requirements, that their job would be outsourced. We ensured that that will not happen.

Now, damages. We made further changes to explain clearly that a portion that is not mandatory in the calculations of damages can be considered under a similar formula that courts use today.

Universities, we spent enormous time, and I have as many universities in Michigan as anybody has in any other State in the Union, and to address their concern, we spent unbelievable amounts of time negotiating with them individually and collectively about the expansion of prior user rights which might reduce the value of their patents and harm their ability to license invention.

We've eliminated the expansion. Instead, we're calling for a study of the operation of prior user rights in countries where they already exist to determine their effects.

It allows universities to sue in districts where they are located but does not extend that right to universities' associated nonprofit organizations.

We deal with inequitable conduct by tightening the standards for pleading and finding inequitable conduct as a defense to infringement.

We continue to operate in good faith with additional changes. We've adopted suggestions made by outside groups to improve our post-grant opposition provision, changed the discovery standard to interest of justice and ensured that a patent owner can bring a patent suit, even if a post-grant suit is instituted.

So we've addressed every concern that has been brought to our attention. No concern was too small or too technical, and we continue even now to listen to the parties in other ways to continue to enhance the bill.

So now is the time for patent reform.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I rise to claim the time in opposition to the manager's amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 10 minutes.

Mr. ROHRABACHER. Mr. Chairman, I ask unanimous consent to yield 5 minutes of the 10 minutes in opposition to the gentleman from Ohio (Ms. KAPTUR) for her to control that time.

The Acting CHAIRMAN. Without objection, the gentleman from Ohio is recognized for 5 minutes.

There was no objection.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume. I thank the gentleman kindly for yielding me this time.

On the manager's amendment, you know what's really sad about this bill is that it is very complicated, and it's a work in progress as we sit here on the floor. It's too important for America and for the future of our industrial and economic base to be treated this way, and I know that the Chair of the subcommittee and the full committee are listening as I speak today. We shouldn't be drafting this in a manager's amendment on the floor.

There's been some inference that the AFL-CIO supports this bill. The AFL-CIO does not support this bill. They support the fact that it is being improved but they do not support the bill.

In addition to that, there's something very important I was not able to address earlier, and that is that this bill prematurely reveals inventors' secrets. In 1999, the Patent Act required the Patent Office to publish on the Internet a patent application 18 months from the date of filing, but the act also allowed inventors to opt out from that if they agreed not to file for patent in another nation. That's the so-called opt-out provision.

Now, between 20 and 33 percent of U.S.-origin patents opt out of the system. They're small people. They're trying to get the venture capital to start up their company and so forth, and the average time the Patent Office takes to process a patent is 31 months. Thus, all the secrets in all patent applications will be made available to every pirate in the world for more than a year before a small inventor, any inventor has a chance for patent protection.

Now, we're going to be told, well, Mr. ISSA's amendment will fix this. No, it will not, and we will argue against that a little bit more down the road.

Several speakers this morning, Mr. WELCH of Vermont and Mr. JOHNSON of Georgia, said, well, we need this reform because we haven't had patent reform since 1952. That's not true. There have been 17 amendments in major bills before this Congress that deal with patent reform in the last 15 years.

The problem with this bill is that it tries to harmonize to lower standards in the world rather than cause other countries to harmonize up to our standards. It takes away the right of first to invent, and it transfers it to first to file. That means an inventor who come here to the Patent Office here in the United States, no matter how small, and file a patent and got the right as an inventor first to invent could be superseded in the international market by someone who happened to catch that invention on the Internet or elsewhere and file it in China first. So it changes it from a first-to-invent to a first-to-file system. This is a substantial change from the system that has been in place in this country since the early 1700s.

You know what I said earlier what's going on here is the big proponents of this, the semiconductor companies, and Mr. EMANUEL read some of their names,

have been fined substantially for patent infringement over the last several years, about \$3.5 billion, and they're trying to get the law changed to make it easier for them. You know what, they have a right to exist. They have a right to function. The problem is they have been taken to court, and there are 15 standards the courts use to ascertain damages. They want to reduce it to one and make the 14 optional. You know what, the Federal judges are saying don't do that; we like the current system. It gives the courts the flexibility that they use.

Why should a few transnational corporations, sort of the big tech companies, have this much power in this Congress? Why don't we have the right of others to be heard here fully rather than having to condense such a serious debate into a few seconds here on the floor?

Why am I opposed to this bill? I'm opposed to this bill because it gives too much power to the big tech transnationals, and it takes away power from the universities that are opposed to this; although, some in California, where so many of these big tech companies are located, are happy. But come to Ohio, come to Wisconsin, come to New York. There are lots of universities that are opposed to this. So it's giving too much advantage to a few companies.

In addition to that, it totally turns upside down the first-to-invent system to a first-to-file system, and it would permit lots of infringements internationally.

It does eliminate the opt-out provision where, if a small inventor doesn't want their invention put up on the Internet, it takes away the opt-out provision from them. Mr. ISSA's amendment does not fix it. We want an opportunity to fix that, because we want to protect the third of inventors that do not file internationally, that do not want their patents put out there like that, and they are not the big companies. They're the smaller companies. And why force them to go into court? They don't have the money to defend themselves anyway.

There's broad-based opposition to this bill. There are lots of organizations, including the Institute of Electronic Engineers, Medical College of Wisconsin. There are many, many others, Cornell University, all opposed to this.

I thank the gentleman for yielding me the time and allowing me to broaden the record here in the very few short seconds we have been allowed.

□ 1345

Mr. CONYERS. I can't help but take 6 seconds in rebuttal.

The universities support this measure. Small inventors support this measure. This bill is to create jobs in America. How could anybody think that I would be supporting a bill that didn't do this in patent law reform?

I yield 2 minutes to the ranking member of the Judiciary Committee, Mr. LAMAR SMITH.

Mr. SMITH of Texas. I want to thank the chairman of the Judiciary Committee for yielding me time.

Mr. Chairman, I want to be unequivocal, first of all, in saying that I support this manager's amendment.

I yield to my friend from California (Mr. HERGER) for purposes of a colloquy.

Mr. HERGER. I would like to thank the ranking member for engaging in this colloquy.

As you know, the manager's amendment was released yesterday afternoon, and it contains language concerning section 337 proceedings before the U.S. International Trade Commission.

However, this language was not considered by the Committee on Ways and Means, even though it is squarely in our jurisdiction. I am aware that Chairman RANGEL and Chairman CONYERS have exchanged letters in which Chairman CONYERS has acknowledged that this issue is within the jurisdiction of the Ways and Means committee. I will support a request for conferees to be named from the Ways and Means committee.

As you know, section 337 proceedings are very complex, and we must ensure that the full ramifications of this language are clearly understood.

As ranking member of the Ways and Means Trade Subcommittee, I hope that you would agree with me that these provisions warrant further analysis and ask that you would work with me and other members of the committee in conference to ensure that these provisions are thoroughly understood as the bill moves through the legislative process.

Mr. SMITH of Texas. Mr. Chairman, I want to thank my friend from California for pointing these provisions out, and I certainly do agree with them, and we will work towards that goal.

Mr. CONYERS. Would the ranking member yield to me?

Mr. SMITH of Texas. I yield to the chairman of the committee.

Mr. CONYERS. Thank you. I want to assure the gentleman.

Mr. Chairman, I would submit for the RECORD a letter dated September 7, 2007, between myself and the chairman of Ways and Means, CHARLES RANGEL.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,

Washington, DC, September 7, 2007.

Hon. JOHN CONYERS, Jr.,
Chairman, Judiciary Committee,
Washington, DC.

DEAR JOHN: I am writing regarding H.R. 1908, the Patent Reform Act of 2007. During consideration of the bill by the Rules Committee, a manager's amendment was made in order that includes provisions affecting section 337 of the Tariff Act of 1930.

As you know, section 337 falls within the jurisdiction of the Committee on Ways and Means. The Ways and Means Committee has jurisdiction over all issues concerning import trade matters.

In order to expedite this legislation for floor consideration, the Committee will forgo action on this bill, and will not oppose the inclusion of this provision relating to

section 337 of the Tariff Act within H.R. 1908. This is being done with the understanding that it does not in any way prejudice the Committee with respect to its jurisdictional prerogatives on this bill or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1908, and would ask that a copy of our exchange of letters on this matter be included in the RECORD.

Sincerely,

CHARLES B. RANGEL,
Chairman.

—
HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 7, 2007.

Hon. CHARLES B. RANGEL,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding your committee's jurisdictional interest in H.R. 1908, the Patent Reform Act of 2007.

I appreciate your willingness to support expediting floor consideration of this important legislation today. I understand and agree that this is without prejudice to your Committee's jurisdictional interests in this or similar legislation in the future. In the event a House-Senate conference on this or similar legislation is convened, I would support your request for an appropriate number of conferees.

I will include a copy of your letter and this response in the CONGRESSIONAL RECORD during consideration of the bill on the House floor. Thank you for your cooperation as we work towards enactment of this legislation.

Sincerely,

JOHN CONYERS, Jr.
Chairman.

I completely agree that it was totally inadvertent, and we want the Ways and Means Committee to assert, and we will help them assert, their full rights in terms of jurisdiction in this matter. I thank him for bringing it to our attention.

Mr. ROHRBACHER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, while I was in the Rules Committee yesterday, the gentleman from California said with regard to the types of damages and the standard for damages that could be used that the judge would have the discretion to determine that.

Well, taking a look at the manager's amendment. That discretion has been taken away, and now there is a presumption in favor of the most onerous provision dealing with damages, and that really would impact the small inventor.

Let's take a look at what would happen with the majority's view on patent damage reform. The Wright brothers' airplane, here is the patent, I have got a picture of it right here.

The flying machine, if it had been patented today, or, no, if the rules that the majority is suggesting now were in effect at the time that the Wright brothers got their patent, the amount that they recovered would have been limited to the fractional value of the surface controls alone, that's it, even though everything else went on what was called an airplane, but the thing never flew.

That's what this does to innovation. If you want to get something for your trim tab and your ailerons and whatever else they put on an aircraft, that's fine.

But this is an example, nobody else in the entire debate has given one example except me. This is the only opportunity that the people opposed to this bill have had to talk about the actual impact of the law upon a factual situation.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield 20 seconds to the gentleman from California.

Mr. BERMAN. Under the entire market value rule, which is in this bill, the Wright brothers, every value of what was created was those surface controls.

Mr. MANZULLO. But under your manager's amendment, the judge would have to say that that does not apply.

Mr. ROHRBACHER. How much time do I have left?

The Acting CHAIRMAN. The gentleman from California has 3 minutes remaining.

Mr. ROHRBACHER. And the time on the other side?

The Acting CHAIRMAN. The gentleman from Michigan has 2¼ minutes remaining.

Mr. ROHRBACHER. I yield myself 3 minutes.

Let's just note when we are talking, Ms. KAPTUR and Mr. MANZULLO talk about one of the horrible provisions of the bill, which changes the whole concept of how damages are assessed, and who has benefited by this.

We have to ask ourselves, we talk about the Wright brothers, the little guys who actually made all the difference in whether or not America has a high standard of living, the damages that these inventors have when people violate their rights and how those damages are assessed. That's right in this legislation.

Yes, they are changing it to the benefit of the infringers. They are beating down the little guys, making it more difficult for the Wright brothers and for all the other little guys who have come up with these ideas in order to help the big corporations.

By the way, let me just add this thought: we are not just talking about American corporations here. We are not talking about making inventors just vulnerable to the big American corporations. We are talking about multinational corporations, and we are talking about foreign corporations.

Our little guys, with just this change, are going to be dramatically damaged. Their ability, in order to protect their rights, will be dramatically reduced.

This is just one example of the type of diminishing of the rights of the inventor in this bill. Yet, we aren't able to discuss it fully. One hour of debate for a bill that's being described here as one of the most important pieces of legislation in the century? One hour of debate in which the opposition was not given a chance to control any time in

opposition? This is a disgrace. What's going on?

This alone should raise the red flag to all of our Members saying something is going on here; there is a power play people in our legislation aren't being able to control their time. What's happening here? We have a manager's amendment now that was permitted to be changed after it left committee. There wasn't even a proper debate on this bill then and this manager's amendment in the committee, much less the subcommittee.

So what we have here is a power play by somebody. The rules don't count when it comes to the bill, because somebody out there really wants it really bad in order to not give us a chance to give the other side, not give the full committee a chance even to discuss these details that are changed in the manager's amendment, not to let the subcommittee play its role.

Now, all I am suggesting is this should raise a red flag for all of our Members. All of us should be aware that when these types of shenanigans are being played, something is going on, that the legislation that's being pushed through probably is not good legislation, but, instead, helps a small group of powerful people.

Mr. CONYERS. How much time remains?

The Acting CHAIRMAN. The gentleman from Michigan has 2¼ minutes remaining.

The gentleman from California, his time has expired.

Mr. CONYERS. I yield myself 6 seconds before I yield the rest of the time to Mr. BERMAN.

This is curious, here I am a son of Labor, out of Labor, represents Labor all my life, being told publicly that I don't represent the little guy from people whose connection with working people in collective bargaining movements is unknown.

With that, I yield to my dear friend, Mr. BERMAN, for the remainder of our time.

Mr. BERMAN. I thank the gentleman for yielding, and I would like to yield to the gentleman from Oregon for purposes of a colloquy.

Mr. WU. I thank the chairman.

As both Chairman CONYERS and Chairman BERMAN are aware, the version of the legislation in the other body contains a section that ends the diversion of fees from the Patent and Trademark Office.

Absent a compelling consideration, would the chairman be amenable to working to keep that provision in conference?

Mr. BERMAN. That is a provision that I have supported, it is legislation I have introduced, it embodies and enacts a philosophy I completely agree with. All PTO fees should be kept within the PTO office to reduce backlogs, to hire qualified people, and to come to better operations of that critical office.

Mr. WU. I thank the chairman.

Mr. BERMAN. The chairman of the committee obviously will be a key

member of the conference committee and indicates that he feels the same way.

Reclaiming my time, I just want to make a couple of points.

First, I have never said, quote, Labor supports this bill. What I said was Labor thinks a number of improvements have been made, particularly in this manager's amendment. There are other issues that concern them, that they believe we are moving in the right direction, and that they have no opposition to the passage of this bill, understanding they have other concerns that want to be addressed.

The same applies for a number of pharmaceutical companies. The major institution, and they are not small guys, Mr. ROHRABACHER. Opposition to this, concerns about this bill, come from large and important—

The Acting CHAIRMAN. The gentleman's time has expired.

The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BERMAN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. ISSA

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-319.

Mr. ISSA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. ISSA:
Page 53, strike lines 9 through 15 and insert the following:

(a) PUBLICATION.—Section 122(b)(2)(B)(i) is amended by striking “published as provided in paragraph (1).” and inserting the following: “published until the later of—

“(I) three months after a second action is taken pursuant to section 132 on the application, of which notice has been given or mailed to the applicant; or

“(II) the date specified in paragraph (1).”.

The Acting CHAIRMAN. Pursuant to House Resolution 636, the gentleman from California (Mr. ISSA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. ISSA. Mr. Chairman, I rise in support of this amendment.

In short, this amendment simply seeks to maintain our historic and important American-only right for an inventor who was denied a patent to keep that patent a secret.

Additionally, it allows sufficient time in the process for a patent holder to know that his patent, his or her patent, either will or will not likely be granted significant claims.

For that reason, we struck a balance between the rest of the world that rec-

ognizes that patents are normally published after 18 months. We said, no, it will be the greater of the second office action, which can be anywhere from 3 to 5 years or 18 months, and we did so because we believe somebody should know when they receive significant claims or not before they are forced to decide whether or not to retain a trade secret.

It's an important issue; it's one that I believe will allow us a final and lasting way for a secret to be balanced with the interest to not have submarine patents and unknown information.

I yield to the chairman of the full committee.

Mr. CONYERS. We have reviewed the amendment. It's an important contribution. We are prepared to accept the amendment.

Mr. ISSA. I yield to the chairman of the subcommittee.

Mr. BERMAN. I thank the gentleman, I also agree with the amendment. I would like to use the time, if you would allow me to finish the sentence, which is with respect to these important companies, that, in the biotechnology and pharmaceutical field, I just want to repeat, a number of things they want, first-inventor-to-file, not first-to-file, first-inventor-to-file, repeal of the best-mode defense, reform of the inequitable-conduct defense, are in this bill, and we intend to work with them on the damages issue between now and a final conference report to try to come to a better understanding on that very important, but very complicated, field.

□ 1400

Mr. ISSA. I yield to the ranking member of the full committee.

Mr. SMITH of Texas. I thank my friend from California for yielding. I certainly endorse his amendment and thank him for offering it.

Mr. ISSA. Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. ROHRABACHER. First and foremost, let us note that over and over again we hear, well, they are not opposing the bill. Well, the labor unions and others, many of them are opposing the bill. But the ones you're describing, you're just saying they aren't necessarily supporting the bill. What we are saying, they are not supporting the bill. This has been reconfirmed by what my colleagues have said in the last 10 minutes.

Also, let us note, over and over again we hear, we're going to work this out. We're going to work all these things out in the bill as it moves through the process, which means to all of us there are major flaws in this bill, huge flaws in this bill, and we have to take it just on faith that they're going to work out all these flaws as it goes through the process.

I would suggest that we take this, we vote “no” on this bill, and then let's correct those flaws and come back to the floor when you've got a bill that isn't flawed. Let's go back to the floor when you can support a bill with an honest debate and not be so afraid of a debate that you'll neuter the chances and mute our opposition voices by giving us almost no time to discuss the issues.

I would yield to my friend, Ms. KAPTUR.

Ms. KAPTUR. Mr. Chairman, I just want to place on the record that Issa's amendment, Issa's choice, is would you rather have the inventor shot with a pistol or a rifle? In either case, he or she ends up dead.

Now, why is that? Because the 1999 Patent Act required the Patent Office to publish on the Internet a patent application 18 months from the date of filing. But the issue really is, it takes an average of 31 months for patent review. Mr. ISSA, I think, brings it up to 24 months. Thus, what happens is there's a gap between when it's filed and when it's approved, and you have to go up on the Internet. Under current law, you can opt out of that so you can protect your invention and not have some pirate in China or Japan or somewhere else take it from you. That is not in this bill.

The elimination of the opt-out provision is a terrible, terrible omission and a major change from existing law, and the Issa amendment does not make it better.

Mr. ROHRABACHER. Reclaiming my time, Ms. KAPTUR has made a really important observation here, and that is, at the end of the day, yeah, the Issa amendment does make some changes, but at the end of the day, there will be American patent applications in which the inventor would like to keep secret until he gets the patent issued to him, which will be published for all of the thieves in China and India and Japan and Korea and elsewhere who would like to have all of that information before the patent is issued. There will still be a significant number of patent applications published for the whole world to see, and the patent applicant doesn't want that.

Ms. KAPTUR. Will the gentleman yield further?

Mr. ROHRABACHER. I certainly will.

Ms. KAPTUR. I just would point out, in the area of biology and microbiology, the average amount of time for patent approval is over 40 months. So, in other words, your invention is out there, and you have no way to protect it globally.

Mr. ROHRABACHER. So in the end, where Mr. ISSA's amendment does take things one or two steps forward, the fact is it doesn't come anywhere close to offering the protection that currently exists in the law that is being destroyed by the language in the Steal American Technologies Act, H.R. 1908.

Let me just note, for my own situation, in terms of the chairman asking

me about my credentials in terms of being associated with labor, I was a member of a labor union. I actually scrubbed toilets at times in my life. I have had menial jobs. I care about the working people. My family comes from working class farmers, poor farmers and people who went off to defend this country.

The American people, the standard of living of ordinary people depends on technology. This bill that's being proposed will give our technological secrets to our competitors which undermines the working people's chances here of competing with cheap labor overseas.

Ms. KAPTUR. Will the gentleman yield on that?

Mr. ROHRABACHER. I certainly will.

Ms. KAPTUR. I would like to defend your labor credentials. You voted against NAFTA on this floor. You were a leader on your side of the aisle. That vote was proven to be right.

What this is going to do, this is going to "NAFTAtize" the patent system and allow China to infringe on more of our inventions. We should not permit this to happen. We should be allowed to fully debate this for the people of this country.

Two-thirds of the value of companies, up to 80 percent of our industrial companies value, relate to their patents, and we should be given more respect. We should give our constituents more respect than compressing this debate into such a narrow time slot.

Mr. ROHRABACHER. If this bill passes, those people who will be our competitors overseas, even if Mr. ISSA's amendment passes, they will have our secrets before the patent is issued and be outcompeting us with our own technologies.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN. Members are reminded to direct their comments to the Chair.

Mr. CONYERS. Could the gentleman from California (Mr. ISSA) yield briefly?

Mr. ISSA. I would yield to the full committee chairman.

Mr. CONYERS. I'm glad we've all proved our working class credentials in support of working people, and I'm very impressed, if not surprised. And so I want to describe this debate that's currently going on on this second provision.

Here is the one man in Congress with more patents as a small-time inventor than anybody in the House and the Senate being explained to why this is contrary to the interests of small-time inventors. Very interesting.

Mr. ISSA. Reclaiming my time, I yield myself such time as I may consume.

I guess as a machinist union worker and a mechanic, I'll get that out there so that I get my claim to union membership and to having gotten a lot of grease under fingernails, for Ms. KAPTUR's understanding, because I think

what she brought up is crucial, and full understanding is essential as to this amendment.

This amendment, if it takes 10 years to get a second office action, will give the inventor 10 years of no one else seeing it. It is an infinite period of time, subject to the 20-year expiration. It is, in fact, an infinite period of time. And as an inventor, I chose the second office action, even though small inventors had said the first office action was good enough, because I was aware that the first office action is most often a rejection over which you overcome most of the objections. The second rejection, if there is one, they usually accept some, and if they give you a rejection, you usually don't overcome them, and the venture community, if you've had a second rejection, tends to discount potential additional claims. So that's the reason I chose those because, in fact, it gives you unlimited time to pursue your patent up to and through a second and, usually, final rejection.

Ms. KAPTUR. Would the gentleman kindly yield to me?

Mr. ISSA. I would be glad to yield to the gentlelady.

Ms. KAPTUR. Does your amendment preserve the opt-out provision of existing law?

Mr. ISSA. It does. Under this provision, if you receive your second and usually final rejection and you say, okay, I'm going to take my, within 90 days, I'm going to discard my patent, that wrapper is not available to anyone. It remains a secret and you're allowed to keep your trade secrets.

Ms. KAPTUR. And how many months or years do you have to wait before you get that opt-out provision? Can you do it immediately?

The Acting CHAIRMAN. The gentleman's time has expired.

The question is on the amendment offered by the gentleman from California (Mr. ISSA).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. ISSA

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110-319.

Mr. ISSA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. ISSA

Page 67, insert the following after line 7:

(c) EFFECTIVE DATE OF REGULATIONS.—

(1) REVIEW BY CONGRESS.—A regulation promulgated by the United States Patent and Trademark Office under section 2(b)(2) of title 35, United States Code, with respect to any matter described in section 2(c)(6) of

such title, as added by subsection (a) of this section, may not take effect before the end of a period of 60 days beginning on the date on which the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office submits to each House of Congress a copy of the regulation, together with a report containing the reasons for its adoption. The regulation and report so submitted shall be referred to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(2) JOINT RESOLUTION OF DISAPPROVAL.—If a joint resolution of disapproval with respect to the regulation is enacted into law, the regulation shall not become effective or continue in effect.

(3) JOINT RESOLUTION DEFINED.—For purposes of this subsection, the term a "joint resolution of disapproval" means a joint resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the regulation submitted by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office on _____ relating to _____, and such regulation shall have no force or effect.", with the first space being filled with the appropriate date, and the second space being filled with a description of the regulation at issue.

(4) REFERRAL.—A joint resolution of disapproval shall be referred in the House of Representatives to the Committee on the Judiciary and in the Senate to the Committee on the Judiciary.

(5) FLOOR CONSIDERATION.—A vote on final passage of a joint resolution of disapproval shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee of that House to which it was referred or after such committee has been discharged from further consideration of the joint resolution of disapproval.

(6) NO INFERENCES.—If the Congress does not enact a joint resolution of disapproval, no court or agency may infer therefrom any intent of the Congress with regard to such regulation or action.

(7) CALCULATION OF DAYS.—The 60-day period referred to in paragraph (1) and the 15-day period referred to in paragraph (5) shall be computed by excluding—

(A) the days on which either House of Congress is not in session because of an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(8) RULEMAKING AUTHORITY.—This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and House of Representatives respectively, and as such it is deemed a part of the rules of each House, respectively.

The Acting CHAIRMAN. Pursuant to House Resolution 636, the gentleman from California (Mr. ISSA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. ISSA. Mr. Chairman, I'll briefly explain the amendment. Almost every single agency of the Federal Government has rule-making authority. But, quite frankly, rules are, in fact, laws made by agencies. So when the Patent and Trademark Office repeatedly has asked us for rule-making authority, it has been a long process to figure out the best way to allow them to make rules but to retain our genuine constitutional obligation over the effects

of those laws. So, in doing so, what we did was we crafted a constitutional review. We're not allowed to veto these agencies, but we are allowed to overrule them. And in doing so, what we have decided to do is to allow any Member of the House or the Senate to bring a motion in opposition to any rule produced or proposed by the Patent and Trademark Office, and we will, in fact, within 60 days, hear that rule, that opposition and make a decision. This is designed specifically to stop any overreaching under this underlying bill from potentially causing things which we would not have legislated to, in fact, be legislated, while recognizing that we want the Patent and Trademark Office to have the ability to move swiftly and accurately to the conclusion of patents on behalf of our economy.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. ROHRABACHER. This is yet another example of why this overall bill should be defeated. The fact is that we shouldn't be changing the provision and permitting outside agencies and taking authority away from us from setting the basic ground rules about patents in the first place. This idea that, well, let me put it this way. This bill is so filled with this type of imperfection, and as we have had our guarantee from those people who brought this bill to the floor so precipitously, they will work really hard to make sure all the flaws are out. I would suggest that that statement alone should have all these red flags going up for all of us. And then the muting of the opposition and not permitting us an adequate amount of time to actually discuss the provisions of the bill and not giving us time to control our own opposition, again, should be the red flags for all of us who's listening to this debate.

I yield 1½ minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, I appreciate so much my friend from California. And, in fact, I like Mr. ISSA so much, I want more people like DARRELL ISSA. I want more people to have the opportunity to create patents, to use ingenuity, to do well based on their thought processes. And I'm afraid now this bill will prevent us from having the opportunity to have more DARRELL ISSAS.

The amendment works on one of the problems, well, gee, we'll look at the regulations. But, my goodness, this is a comprehensive bill. We keep hearing, you know, we need comprehensive bills. And red flags went up in my mind. And where have I heard that? Oh, yes, on immigration reform. We had to have a comprehensive bill because there were some things that needed to be passed, some people thought, that

they knew could not pass if they had the bright enough light of day shown on them, and so we have a comprehensive bill to put some things in there that do more damage than good.

We need more time to look at these provisions so that we can ensure that there are more DARRELL ISSAS that get to have the same opportunities to do as well and make us as proud as our good friend from California.

Mr. ROHRABACHER. Mr. Chairman, how much time do I have?

The Acting CHAIRMAN. The gentleman from California has 2½ minutes remaining.

The other gentleman from California has 3½ minutes remaining.

Mr. ROHRABACHER. I yield 1 minute to Ms. KAPTUR.

Ms. KAPTUR. Mr. Chairman, I just wanted to place on the record opposition to Mr. ISSA's amendment to try to politicize decision making that is done by professionals over at the Patent Office. But in doing so, also to place on the record who's financing the expensive lobbying campaign on behalf of the bill that is before us today. They are a coalition of companies including transnational corporations: Adobe, Microsoft, Cisco, Intel, eBay, Lenovo, Dell and Oracle.

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During the period of 1993–2005, four of them alone paid out more than \$3.5 billion in patent settlements. And in the same period, their combined revenues were over \$1.4 trillion, making their patent settlements only about one-quarter of 1 percent of those revenues. Now they wish to reduce even those costs, not by changing their obviously unfair and often illegal business practices, but by persuading Congress and also the Supreme Court to weaken U.S. patent protections.

We ought to stand up for American inventors. We should not allow this bill to go forward. It should have sunlight. I know my colleagues are doing the best they can, but they can surely do better than this.

Mr. ISSA. Mr. Chairman, I am proud to yield 1 minute to the chairman of the full committee, Mr. CONYERS.

Mr. CONYERS. Ladies and gentlemen, I keep noticing that the opponents to the bill, opponents to the rule, opponents to the manager's amendment, opponents to the amendments to include it in this are all opposed to everything, anything. And I am glad these great sons of Labor, like the gentleman from California who knows his voting record on Labor and so, unfortunately, do I, recognize how he is supporting the working people and the person who has invented more inventions than all of us put together is opposing the small inventors. What a debate this is.

I just rise to let you know, sir, that on this side of the aisle, we are proud to support this amendment.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

Mr. Acting CHAIRMAN. All Members are reminded to address their comments to the Chair.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Let me just note I think it is really much more important to talk about provisions of the bill rather than trying to point out things about each other, and that is one of the reasons we needed more time in this debate so that we could actually get into the provisions of this bill.

The fact that no matter what happens with Mr. ISSA's first amendment, that still there will be patent applications that will be published for the world to see even before the patent is issued; that our overseas competitors will then have information that they will be able to use to outcompete us even before our patents are issued to those inventors who have applied for patents. Those are the issues we need to talk about.

We need to talk about why the assessment of damages has been changed in a way that helps these big guys, these big companies that Ms. KAPTUR has just outlined, as well as the foreign corporations, I might add, at the expense of the small inventor. The inventor is just trying to prevent theft of his lifetime of work. We have to know why we have had different ways of determining the validity of a patent and opening up challenges in the front of the patent as well as afterwards so that we add cost after cost after cost to the little guy.

We need to discuss these things in detail. Instead we have 1 hour in which the opposition, I think, had 12 minutes in order to discuss these issues. This should raise a flag to everyone listening to this debate. Why is Congress trying to stampee the rest of the Members of Congress into voting for an act that could be so damaging to the American people?

The Acting CHAIRMAN. The time of the gentleman has expired.

Mr. ISSA. Mr. Chairman, I yield myself such time as I may consume.

Both of my amendments are intended to improve this bill. I don't stand before the Committee of the Whole to say that this bill will become perfect. As a matter of fact, in the general debate, I named companies like BIOCOM and GenProbe and Invitrogen, who are part of UCSD CONNECT, who have specific areas we are including in the material that they want continued work done on. They are, in fact, dissatisfied with the bill because it hasn't done everything it could do. But this amendment on rulemaking which would stop an arbitrary decision by the Patent Office on something it may want to do such as eliminate continuations, et cetera, is there for a reason. And I would hope that people who are going to perhaps oppose the bill as not yet good enough would recognize that it is crucial for this amendment to get into it if we are going to protect against arbitrary action by the Patent and Trademark Office.

And last but not least, Ms. KAPTUR was kind enough to ask one more question during the previous amendment that couldn't be answered, and I just want to make it clear on the previous amendment, you will be able to keep your secret through an unlimited period of debate back and forth with the Patent Office up to two full rejections and then 90 days in which to close. And I would hope the gentlewoman would recognize that that is an improvement even if nothing is perfect.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. ISSA. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman very much for yielding.

As I said with ISSA's choice, it is either being shot with a pistol or a rifle. It does not guarantee that once the patent is granted that that person can keep their intellectual property, can opt out and not have it published for that 18-month period. So we are taking away that intellectual property protection.

Mr. ISSA. Reclaiming my time, Mr. Chairman, under the current law when your patent claims are granted, you have an obligation to make available to the world and to people of ordinary skill in the art how to knock off your product. That's current law. That has been around since the founding. The deal between the Patent Office, the American people, if you will, and the inventor is that you have disclosed to the world if you are given those claims for a limited period of time. We are not changing that in 200 years. We are protecting your right if you are not granted a patent. That is what current law does; that is what this amendment does.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ISSA).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. ROHRBACHER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110-319.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. JACKSON-LEE of Texas:

At the end of the bill insert the following new section:

SEC. 18. STUDY ON PATENT DAMAGES.

(a) IN GENERAL.—The Under Secretary of Commerce for Intellectual Property and Di-

rector of the United States Patent and Trademark Office (in this section referred to as the "Director") shall conduct a study of patent damage awards in cases where such awards have been based on a reasonable royalty under section 284 of title 35, United States Code. The study should, at a minimum, consider cases from 1990 to the present.

(b) CONDUCT.—In conducting the study under subsection (a), the Director shall investigate, at a minimum, the following:

(1) Whether the mean or median dollar amount of reasonable-royalty-based patent damages awarded by courts or juries, as the case may be, has significantly increased on a per case basis during the period covered by the study, taking into consideration adjustments for inflation and other relevant economic factors.

(2) Whether there has been a pattern of excessive and inequitable reasonable-royalty-based damages during the period covered by the study and, if so, any contributing factors, including, for example, evidence that Federal courts have routinely and inappropriately broadened the scope of the "entire market value rule", or that juries have routinely misapplied the entire market value rule to the facts at issue.

(3) To the extent that a pattern of excessive and inequitable damage awards exists, measures that could guard against such inappropriate awards without unduly prejudicing the rights and remedies of patent holders or significantly increasing litigation costs, including legislative reforms or improved model jury instructions.

(4) To the extent that a pattern of excessive and inequitable damage awards exists, whether legislative proposals that would mandate, or create a presumption in favor of, apportionment of reasonable-royalty-based patent damages would effectively guard against such inappropriate awards without unduly prejudicing the rights and remedies of patent holders or significantly increasing litigation costs.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the Congress a report on the study conducted under this section.

The Acting CHAIRMAN. Pursuant to House Resolution 636, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I started out in this debate to say that we worked very hard for a long period of time to be able to look at the small and the big, the big inventor and the little man inventor. All of them have been great to America, and we have benefited from their inventions and their intellect.

This patent bill preserves the intellectual property, the art, the invention, the minds of America. And it does, in fact, protect us against those who would undermine this very viable economic engine, and that is our mind, our talent.

But I believe that all voices should be heard. And throughout this whole process there is probably no one who focused on the damages issue as much as I did, the proportionality issue. And I worked with Mr. BERMAN and Mr. CONYERS and our bipartisan friends.

So this gives us an opportunity, and my amendment is very simple. And it

doesn't wait 7 years or 10 years to give us answers. It's 1 year. It provides us with the opportunity in this landmark legislation to study the patent damage awards in cases where such awards have been based on a reasonable royalty under section 84 of title 35 of the United States Code. The study should at a minimum consider cases from 1990 to the present. It has a very detailed analysis, and what that will do is it will find its way to this Congress and we will have a better way of assessing the impact.

We are concerned. Proportionality is an issue. But we are not ignoring your concerns, and this particular study helps to bring us along.

Let me just quickly suggest the entities that will be impacted in a positive way: the American Intellectual Property Law Association, a number of universities that will be impacted from the University of Illinois to Massachusetts to the University of Iowa, Maryland, Michigan, Minnesota, New Hampshire, North Carolina, Texas A&M. Small inventors will be impacted by this study because it will give us more information.

I would ask my colleagues to support this amendment.

Thank you, Mr. Chairman for affording me this opportunity to explain my amendment to H.R. 1908, the "Patent Reform Act of 2007." Let me also thank the distinguished Chairman of the Judiciary Committee, Mr. CONYERS, and the Ranking Member, Mr. SMITH, for the example of bipartisan leadership coming together to address the real problems of the American people and the economy.

I especially wish to thank Mr. BERMAN and Mr. COBLE, the chair and ranking member of the Judiciary Subcommittee on Courts, Intellectual Property, and the Internet for their hard work, perseverance, and visionary leadership in producing landmark legislation that should ensure that the American patent system remains the envy of the world. I am proud to have joined with all of them as original co-sponsor of H.R. 1908, the Patent Reform Act of 2007.

On behalf of the small business enterprises, technology firms, and academics I am privileged to represent, I want to publicly thank them for working with me on two other amendments to the bill offered by me which were adopted during the full committee markup.

Mr. Chairman, my amendment is a simple but important addition to this landmark legislation, which I believe can be supported by every member of this body. My amendment calls for a study of patent damage awards in cases where such awards have been based on a reasonable royalty under Section 284 of Title 35 of the United States Code. The study should, at a minimum, consider cases from 1990 to the present. The results of this study shall be reported to the House and Senate Judiciary Committees.

I have attached to my statement a partial listing of groups, organizations, institutions, and industries that will benefit from the study called for in my amendment.

Mr. Chairman, Article I, Section 8, clause 8 of the Constitution confers upon the Congress the power: "To promote the Progress of

Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

In order to fulfill the Constitution’s mandate, we must examine the patent system periodically to determine whether there may be flaws in its operation that may hamper innovation, including the problems described as decreased patent quality, prevalence of subjective elements in patent practice, patent abuse, and lack of meaningful alternatives to the patent litigation process.

On the other hand, we must be mindful of the importance of ensuring that small companies have the same opportunities to innovate and have their inventions patented and that the laws will continue to protect their valuable intellectual property.

Chairman BERMAN is to be commended for his yeoman efforts in seeking to broker a consensus on the subject of damages and royalty payments, which is covered in Section 5 of the bill. But as all have learned by now, this is an exceedingly complex issue. The complexity stems not from the unwillingness of competing interests to find common ground but from the interactive effects of patent litigation reform on the royalty negotiation process and the future of innovation.

Important innovations come from universities, medical centers, and smaller companies that develop commercial applications from their basic research. These innovators must rely upon the licensing process to monetize their ideas and inventions. Thus, it is very important that we take care not to harm this incubator of tomorrow’s technological breakthroughs. It is for that reason that we need to study whether patent damage awards in cases where such awards have been based on a reasonable royalty under 35 U.S.C. 284 have and are hindering technological innovation.

And it is important to emphasize Mr. Chairman, that this evaluation will be based on empirical data rigorously analyzed.

Among the matters to be studied and reviewed are the following: Whether the mean or median dollar amount of reasonably royalty-based patent damages awarded by courts or juries, as the case may be, has significantly increased on a per case basis during the period covered by the study, taking into consideration adjustments for inflation and other relevant economic factors; Whether there has been a pattern of excessive and inequitable reasonable-royalty based damages during the period covered by the study and, if so, any contributing factors; To the extent that a pattern of excessive and inequitable damage awards exists, measures that could guard against such inappropriate awards without un-

duly prejudicing the rights and remedies of patent holders or significantly increasing litigation costs; and To the extent that a pattern of excessive and inequitable damage awards exists, whether legislative proposals that would mandate, or create a presumption in favor of, apportionment of reasonable royalty-based patent damages would effectively guard against such inappropriate awards without unduly prejudicing the rights and remedies of patent holders or significantly increasing litigation costs.

In short, Mr. Chairman my amendment can be summed up as follows: For those who are confident of the future, my amendment offers vindication. For those who are skeptical that the new changes will work, my amendment will provide the evidence they need to prove their case. And for those who believe that maintaining the status quo is intolerable, my amendment offers a way forward.

I urge all members to support my amendment.

APPENDIX

AmberWave Systems Aware, Inc., Canopy Venture Partners, LLC, Cantor Fitzgerald, LP, Cryptography Research, Cummins-Allison Corp., Digimarc Corporation, Fallbrook Technologies, Inc., Helius, Inc., Immersion Corporation, Inframat Corporation, InterDigital Communications Corporation, Intermolecular, Inc., LSI Metabolix.

QUALCOMM, Inc., Symyx, Tessera, US Nanocorp. 3M, Abbott, Accelerated Technologies, Inc., Acorn Cardiovascular Inc., Adams Capital Management, Adroit Medical Systems, Inc., AdvaMed, Advanced Diamond Technologies, Inc., Advanced Medical Optics, Inc., Advanced Neuromodulation Systems, Inc., Aero-Marine Company.

AFL-CIO, Air Liquide, Air Products, ALD NanoSolutions, Inc., ALIO Industries, Allergan, Inc., Almyra, Inc., AmberWave Systems Corporation, American Intellectual Property Law Association (AIPLA), American Seed Trade, Americans for Sovereignty, Americans for the Preservation of Liberty, Amylin Pharmaceuticals, AngioDynamics, Inc. Applied Medical, Applied Nanotech, Inc.

Argentis Pharmaceuticals, LLC, Arizona BioIndustry Association, ARYx Therapeutics, Ascenta Therapeutics, Inc., Association of University Technology Managers (AUTM), Asthmatx, Inc., AstraZeneca, Aware, Inc., Baxa Corporation, Baxter Healthcare Corporation, BayBio, Beckman Coulter, BIO—Biotechnology Industry Organization, BioCardia, Inc.

BIOCOM, Biogen Idec, Biomedical Association, BioOhio, Bioscience Institute, Biotechnology Council of New Jersey, Blacks for Economic Security Trust Fund, BlazeTech Corporation, Boston Scientific, Bridgestone Americas Holding, Inc., Bristol-Myers Squibb, BuzzLogic, California Healthcare Institute, Canopy Ventures, Carbide Derivative Technologies, Cardiac Concepts, Inc.

CardioDynamics, Cargill, Inc., Cassie-Shpherd Group, Caterpillar, Celgene Corporation, Cell Genesys, Inc., Center 7, Inc., Center for Small Business and the Environment, Centre for Security Policy, Cephalon, CheckFree, Christian Coalition of America, Cincinnati Sub-Zero Products, Coalition for 21st Century Patent Reform, Coalitions for America.

CogniTek Management Systems, Inc., Colorado Bioscience Association, Conceptus, Inc., CONNECT, Connecticut United for Research Excellence, Cornell University, Corning, Coronis Medical Ventures, Council for America, CropLife America, Cryptography Research, Cummins Inc.

Cummins-Allison Corporation, CVRx Inc., Dais Analytic Corporation, Dartmouth Regional Technology Center, Inc., Declaration Alliance

Deltanoid Pharmaceuticals, Digimarc Corporation, DirectPointe, Dow Chemical Company, DuPont, Dura-Line Corporation, Dynatronics Co., Eagle Forum, Eastman Chemical Company.

Economic Development Center, Edwards Lifesciences, Elan Pharmaceuticals, Inc., Electronics for Imaging, Eli Lilly and Company, Ellman Innovations LLC, Enterprise Partners Venture Capital, Evalve, Inc. Exxon Mobil Corporation, Fallbrook Technologies Inc., FarSounder, Inc., Footnote.com, Gambro BCT, General Electric.

Genomic Health, Inc., Gen-Probe Incorporated, Genzyme, Georgia Biomedical Partnership, Glacier Cross, Inc.

GlaxoSmithKline, Glenview State Bank, Hawaii Science & Technology Council, HealthCare Institute of New Jersey, HeartWare, Inc., Helius, Inc., Henkel Corporation.

Hoffman-LaRoche, Inc., iBIO, Imago Scientific Instruments, Impulse Dynamics (USA), Inc., Indiana Health Industry Forum, Indiana University, Innovation Alliance, Institute of Electrical and Electronics Engineers (IEEE)—USA.

InterDigital Communications Corporation, Intermolecular, Inc., International Association of Professional and Technical Engineers (IPTE), Invitrogen Corporation, Iowa Biotechnology Association, ISTA Pharmaceuticals, Jazz Pharmaceuticals, Inc., Johnson & Johnson, KansasBio, Leadership Institute, Let Freedom Ring, Life Science Alley, LITMUS, LLC, LSI Corporation, Lux Capital Management, Luxul Corporation, Maryland Taxpayers’ Association.

Masimo Corporation, Massachusetts Biotechnology Council, Massachusetts Medical Device Industry Council (MassMEDIC), Maxygen Inc., MDMA—Medical Device Manufacturer’s Association, Medical College of Wisconsin, MedImmune, Inc., Medtronic, Merck, Metabasis Therapeutics, Inc., Metabolix, Inc., Metacure (USA), Inc., MGI Pharma Inc., MichBio.

Michigan Small Tech Association, Michigan State University, Millennium Pharmaceuticals, Inc., Milliken & Company, Mohr, Davidow Ventures, Monsanto Company, NAM—National Association of Manufacturers, NanoBioMagnetics, Inc. (NBMI), NanoBusiness Alliance, Nanolnk, Inc., Nanointegris, Inc., Nanomix, Inc., Nanophase Technologies, NanoProducts Corporation, Nanosys, Inc., Nantero, Inc., National Center for Public Policy Research, Nektar Therapeutics, Neoconix, Inc.

Neuro Resource Group (NRG), Neuronetics, Inc., NeuroPace, New England Innovation Alliance, New Hampshire Biotechnology Council, New Hampshire Department of Economic Development, New Mexico Biotechnical and Biomedical Association, New York Biotechnology Association.

Norseman Group, North Carolina Biosciences Organization, North Carolina State University, North Dakota State University, Northrop Grumman Corporation, Northwestern University, Novartis, Novartis Corporation.

Novasys Medical Inc., NovoNordisk, NUCRYST Pharmaceuticals, Inc., NuVasive, Inc., Nuvelo, Inc., Ohio State University, OpenCEL, LLC, Palmetto Biotechnology Alliance, Patent Café.com, Inc., Patent Office Professional Association, Pennsylvania Bio, Pennsylvania State University, PepsiCo, Inc., Pfizer, PhRMA—Pharmaceutical Research and Manufacturers of America, Physical Sciences Inc., PointeCast Corporation.

Power Innovations International, Power Metal Technologies, Inc., Preformed Line Products, Procter & Gamble, Professional Inventors' Alliance.

ProRhythm, Inc., Purdue University, Pure Plushy Inc., QUALCOMM Inc., QuantumSphere, Inc., QuesTek Innovations LLC, Radiant Medical, Inc., Rensselaer Polytechnic Institute, Research Triangle Park, NC, Retractable Technologies, Inc., RightMarch.com.

S & C Electric Company, Salix Pharmaceuticals, Inc., SanDisk Corporation, Sangamo BioSciences, Inc., Semprius, Inc., Small Business Association of Michigan—Economic Development Center, Small Business Exporters Association of the United States, Small Business Technology Council, Smart Bomb Interactive, Smile Reminder, SmoothShapes, Inc., Solera Networks, South Dakota Biotech Association, Southern California Biomedical Council, Spiration, Inc., Standup Bed Company.

State of New Hampshire Department of Resources and Economic Development, Stella Group, Ltd., StemCells, SurgiQuest, Inc., Symyx Technologies, Inc., Tech Council of Maryland/MdBio, Technology Patents & Licensing, Tennessee Biotechnology Association, Tessera, Inc., Texas A&M, Texas Healthcare, Texas Instruments, Three Arch Partners, United Technologies, University of California System, University of Illinois, University of Iowa, University of Maryland, University of Michigan, University of Minnesota, University of New Hampshire, University of North Carolina System, University of Rochester, University of Utah, University of Wisconsin-Madison.

US Business and Industry Council, US Council for International Business, USGI Medical, USW—United Steelworkers, Vanderbilt University and Medical Center, Virent Energy Systems, Inc., Virginia Biotechnology Association, Visidyne, Inc., VisionCare Ophthalmologic Technologies, Inc., Washington Biotechnology & Biomedical Association.

Washington University, WaveRx, Inc., Wayne State University, Wesco, Inc., Weyerhaeuser, Wilson Sonsini Goodrich & Rosati, Wisconsin Alumni Research Foundation (WARF), Wisconsin Biotechnology and Medical Device Association, Wyeth.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the gentlewoman's amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to Mr. MANZULLO.

Mr. MANZULLO. Mr. Chairman, what is interesting about the amendment from the gentlewoman from Texas is the fact that she wants to have a study, and I agree with it, of patent damage awards from at least 1990 to the present case.

So this is very interesting because here we are about to do this massive change in law and no one has done the study. But now we are going to do the study after we have this massive change in law.

I'll tell you, this train just turned around with the caboose going forward. That is why this bill has to be ditched.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to Mr. GOHMERT from Texas.

Mr. GOHMERT. Mr. Chairman, our chairman of the Judiciary Committee commented that it looks like the people opposed to anything are opposed to everything.

I'm really not. I think this is a good idea, a good amendment; and I applaud my colleague from Texas for pushing this forward.

I would like to have had these results before we went forward with this so-called comprehensive bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. GOHMERT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, my intent was to respond to the disparate voices.

Would you at least admit that this improves or adds to by giving us additional information?

Mr. GOHMERT. Reclaiming my time, Mr. Chairman, as I said, I think it's a good idea and I'm going to vote for it. But I would rather have this as a stand-alone before we do all of these what some have referred to as draconian comprehensive measures.

And I do not question whatsoever the sincerity or the effort on behalf of the chairman for working people and others. And I do not question the sincerity when we were told, and I was among those who were told, you could be in a group that will revise this. I just never was given that opportunity.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 30 seconds to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. I thank the gentlewoman for yielding, and I support the amendment.

I would just like to note, however, that we have had over 21 hearings in the subcommittee and have convened several briefings on top of that. We have had reports from the National

Academy, the FTC on this subject. And I think the gentlewoman's amendment to get still further information is valid. I support it. But certainly we have information today that has been gained over an extensive process over half a decade.

Mr. ROHRABACHER. Mr. Chairman, I yield 2 minutes to Mr. ROSCOE BARTLETT, Ph.D., a man who holds 20 patents, a man who is greatly respected for his scientific knowledge and who has been deeply appreciated for the advice he has given us in that endeavor in the last 15 years in Congress.

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. I thank the gentleman for yielding.

I have been, for the last couple of hours, doing what is seldom done in this House. I have been listening to every minute of this debate. And I felt compelled to come to the floor.

When I was listening to the debate, I was reminded of the story of the father who was looking at the white shirt that he wore yesterday to see if he could wear it again.

□ 1430

And his daughter observed, daddy, if it's doubtful, it's dirty. And I thought of that when I was listening to this debate because obviously this bill is doubtful. We're amending it on the run. And I wonder if, Mr. Chairman, maybe the little girl isn't right, that if it's doubtful, it's dirty.

There's been a lot of talk about protecting the rights of the little guy. In a former life, I had 20 patents. And I'm really committed to protecting the rights of the little guy because I was a little guy, not just because of the little guy, but because most of our creativity and innovation comes from the little guy.

And what I would suggest is that if this bill is so flawed that we're modifying it, amending it on the run and hope to make it okay when we come to conference, wouldn't it be better just to send it back to committee and do it right the first time?

Ms. JACKSON-LEE of Texas. May I inquire as to how much time I have remaining?

The Acting CHAIRMAN. The gentlewoman from Texas has 2 minutes remaining.

Ms. JACKSON-LEE of Texas. I yield 45 seconds to the distinguished chairman, Mr. CONYERS.

Mr. CONYERS. I rise only to say to the distinguished previous speaker that this mistaken impression that this is being amended on the run is incorrect. And I'm glad you listened to the full debate, and I respect your position.

The point that you think it's being amended on the run is that we had nearly 50 organizations in which we were negotiating with up until the last moment, and even now, sir. That's why we have a manager's amendment.

Mr. BARTLETT of Maryland. Will the gentleman yield?

Mr. CONYERS. I will yield to the gentleman.

Mr. BARTLETT of Maryland. I was simply quoting what you said.

Ms. JACKSON-LEE of Texas. May I inquire as to how much time I have remaining?

The Acting CHAIRMAN. The gentleman from Texas has 1¼ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from California.

Mr. BERMAN. I thank the gentlelady, and I support her amendment.

Just to review the bidding, my friend from California (Mr. ROHRABACHER) over and over again talks about the flaws in this bill. Other than four Gohmert amendments on the issue of venue and one amendment from the gentleman from Iowa that was an earmark amendment, no other amendments were kept from consideration here. For all the arguments about flaws, where were the amendments to correct the flaws that they talk about? For all the notions of, we're not against reform, but this one isn't perfect, and this one isn't right, and this has some flaws, and it hasn't resolved every issue to everyone's satisfaction, nothing will, where is their alternative bill?

I'm telling you, this is an issue of whether we're going to address a system that the National Academy of Sciences and so many other objective agencies have said is getting near broken or doing nothing, and I suggest doing nothing is not a good answer for a Congress that wants to keep the American economy strong.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Let's note that there are several amendments that were not permitted by the Rules Committee. I did not submit amendments because those of us who have been following this bill realize it is fundamentally flawed. The purpose of the bill is to support those large corporations that Ms. KAPTUR noted who are dramatically supporting the legislation. And it is being opposed, I might add, by a large number of universities, unions, pharmaceutical industries, biotech industries, et cetera, et cetera. So we have everybody except the electronics industry and the financial industry, who are already over in China making their profit at our expense, are opposed to the bill.

I yield my remaining 30 seconds to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. I just wanted to clarify the basis for my observation that the bill was being amended on the run. I was simply quoting the chairman, who said that they worked late last night changing the manager's amendment, that they were going to continue to work through conference so that they could

change the bill to make it better. So obviously the bill is being amended and being changed on the run.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. PENCE

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110-319.

Mr. PENCE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. PENCE:

Page 40, line 9, strike "identifies" and all that follows through line 11 and insert the following:

"(1) identifies the same cancellation petitioner and the same patent as a previous petition for cancellation filed under such section; or

"(2) is based on the best mode requirement contained in section 112.

The Acting CHAIRMAN. Pursuant to House Resolution 636, the gentleman from Indiana (Mr. PENCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. PENCE. I yield myself such time as I may consume.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I rise today in support of an amendment that would simply clarify patent law in what is known as "best mode."

Before explaining my amendment and the need for it, I want to take a brief moment to express my personal gratitude to Ranking Member Lamar Smith for his years of work on this issue, and to express my appreciation not only to Chairman CONYERS, but to Chairman BERMAN, for the bipartisan manner in which they have proceeded on this legislation, so vital as it is to our national life and to our economic vitality.

Years of countless hearings, great dedication have gone into this bill on both sides of the aisle. And while, Mr. Chairman, I'm not convinced that it's a perfect bill, I believe, as the gentleman from California said, it's a work in progress, as is all complex American law, and I think that moving forward is the right thing to do today.

With that, I would like to yield 1 minute to the distinguished ranking member of the committee, the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I thank my friend from Indiana for yielding, and I want to point out that he is a member of the Intellectual Property Subcommittee of the Judiciary Committee. I know he is going to describe this amendment very well, so I will not go into that detail, but simply urge my colleagues to support it.

Mr. PENCE. I thank the gentleman for his support.

Mr. Chairman, the Constitution vests, in article I, section 8, clause 8, the power and the duty of the Congress "to promote the progress of science and useful arts by securing for limited times to inventors the exclusive right to their discoveries." This is an express obligation of the Congress under the Constitution.

Our patent laws, as currently written, were essentially drafted over 50 years ago, and I believe it is time to update them to account for changes in our dynamic 21st century economy.

We need to strengthen out patent laws to make sure that patents that are issued are strong and high quality, but I would submit that we also need to reform our patent laws to eliminate lawsuit abuse that has become so prevalent. Aspects of this legislation will do that; my amendment seeks to do that further.

As I said before, I am sympathetic to those who say that further work on damages needs to be done in conference. I agree with their sentiment to that point, and I trust that will occur.

On balance, though, I have determined that this legislation is an important and useful step toward modernizing and strengthening our American patent law, and I am pleased to support it. But I encourage Members of the House not to take this step without first supporting the Pence amendment, which makes an important clarification of provisions governing what is known as best mode in patent law.

At the Judiciary Committee markup of this bill, I first supported an amendment which would have repealed best mode in full. American patent law requires that a patent application, "set forth the best mode contemplated by the inventor of carrying out his invention" at the time the application is filed. But providing the best mode at the time of application is not a requirement in Europe or in Japan or in any of the rest of the world, and it has become a vehicle for lawsuit abuse.

In my view, the best mode requirement of American law imposes extraordinary and unnecessary costs on the inventor and adds a subjective requirement to the application process, and I believe public interest is already adequately met in ensuring quality technical disclosures for patents.

At the Judiciary Committee, I offered a best mode relief amendment that was accepted. The Pence amendment then retained best mode as a specifications requirement for obtaining a patent, the intent to maintain in the law the idea that patent applicants

should provide extensive disclosure to the public about an invention. But the Pence amendment endeavored to remove best mode from litigation.

Increasingly in patent litigation defendants have put forth best mode as a defense and a reason to find patents unenforceable. It becomes virtually a satellite piece of litigation in and of itself, detracts from the actual issue of infringement, and literally costs American inventors millions in legal fees.

The intent of the amendment was to keep best mode in the Patent and Trademark Office. My amendment today continues this effort toward eliminating this archaic and costly provision of the law. Specifically, the amendment today makes it clear that arguments about best mode cannot serve as the basis for post-grant review proceedings. It's quite simple in that effect.

With my amendment, under the new post-grant review system, best mode will not be litigated. That will lessen the burden put on patent holders in defending their patents in post-grant review proceedings, and it will prevent the expenditure of millions of dollars in needless lawsuit abuse.

I encourage my colleagues to support the amendment.

Mr. CONYERS. Will the gentleman yield?

Mr. PENCE. I would be very pleased to yield to the distinguished Chair.

Mr. CONYERS. Not only to thank the gentleman for producing this amendment, but also to appreciate all the work that he did on helping us make this bill as good as it was. We thank you very much.

Mr. PENCE. I thank the chairman for his remarks. And I urge my colleagues to support the Pence amendment so we can further clarify the intended best mode relief.

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. ROHRABACHER. I would, first of all, submit for the RECORD a list of several hundred organizations, including unions and universities, et cetera, all of whom have raised objections to the patent legislation, H.R. 1908, not necessarily that they're all opposed to it, but they have strong objections.

ORGANIZATIONS AND COMPANIES WHICH HAVE RAISED OBJECTIONS TO PATENT LEGISLATION (H.R. 1908)

Organizations and Companies Raising Objections to H.R. 1908, the Patent Reform Act of 2007: 3M, Abbott, Accelerated Technologies, Inc., Acorn Cardiovascular Inc., Adams Capital Management, Adroit Medical Systems, Inc., AdvaMed, Advanced Diamond Technologies, Inc., Advanced Medical Optics, Inc., Advanced Neuromodulation Systems, Inc., Aero-Marine Company, AFL-CIO, African American Republican Leadership Council.

Air Liquide, Air Products, ALD NanoSolutions, Inc., ALIO Industries, Allergan, Inc., Almyra, Inc., AmberWave Systems Corporation, American Conservative Union, American Intellectual Property

Law Association (AIPLA), American Seed Trade, Americans for Sovereignty.

Americans for the Preservation of Liberty, Amylin Pharmaceuticals, AngioDynamics, Inc., Applied Medical, Applied Nanotech, Inc., Argentis Pharmaceuticals, LLC, Arizona BioIndustry Association, ARYx Therapeutics, Ascenta Therapeutics, Inc., Association of University Technology Managers (AUTM).

Asthmatx, Inc., AstraZeneca, Aware, Inc., Baxa Corporation, Baxter Healthcare Corporation, BayBio, Beckman Coulter, BIO—Biotechnology Industry Organization, BioCardia, Inc., BIOCROM, Biogen Idec, Biomedical Association, BioOhio, Bioscience Institute, Biotechnology Council of New Jersey.

Blacks for Economic Security Trust Fund, BlazeTech Corporation, Boston Scientific, Bridgestone Americas Holding, Inc., Bristol-Myers Squibb, BuzzLogic, California Healthcare Institute, Canopy Ventures, Carbide Derivative Technologies, Cardiac Concepts, Inc., CardioDynamics, Cargill, Inc., Cassie-Shipperd Group, Caterpillar, Celgene Corporation, Cell Genesys, Inc., Center 7, Inc., Center for Small Business and the Environment, Centre for Security Policy, Cephalon, CheckFree, Christian Coalition of America.

Cincinnati Sub-Zero Products, Coalition for 21st Century Patent Reform, Coalitions for America, CogniTek Management Systems, Inc., Colorado Bioscience Association, Conceptus, Inc., CONNECT, Connecticut United for Research Excellence, Cornell University, Corning, Coronis Medical Ventures, Council for America, CropLife America, Cryptography Research, Cummins Inc., Cummins-Allison Corporation.

CVRx Inc., Dais Analytic Corporation, Dartmouth Regional Technology Center, Inc., Declaration Alliance, Deltanoid Pharmaceuticals, Digimarc Corporation, DirectPointe, Dow Chemical Company, Dupont, Dura-Line Corporation, Dynatronics Co., Eagle Forum, Eastman Chemical Company, Economic Development Center, Edwards Lifesciences, Elan Pharmaceuticals, Inc., Electronics for Imaging, Eli Lilly and Company, Ellman Innovations LLC, Enterprise Partners Venture Capital, Evalve, Inc., Exxon Mobile Corporation, Fallbrook Technologies Inc., FarSounder, Inc. Footnote.com.

Gambro BCT, General Electric, Genomic Health, Inc., Gen-Probe Incorporated, Genzyme, Georgia Biomedical Partnership, Glacier Cross, Inc., GlaxoSmithKline, Glenview State Bank, Hawaii Science & Technology Council, HealthCare Institute of New Jersey, HeartWare, Inc., Helius, Inc., Henkel Corporation, Hoffman-LaRoche, Inc.

iBIO, Imago Scientific Instruments, Impulse Dynamics (USA), Inc., Indiana Health Industry Forum, Indiana University, Innovation Alliance, Institute of Electrical and Electronics Engineers (IEEE)—USA, Inter-Digital Communications Corporation, Inter-molecular, Inc., International Association of Professional and Technical Engineers (IPFTE), Invitrogen Corporation, Iowa Biotechnology Association, ISTA Pharmaceuticals, Jazz Pharmaceuticals, Inc., Johnson & Johnson, KansasBio, Leadership Institute, Let Freedom Ring, Life Science Alley, LITMUS, LLC.

LSI Corporation, Lux Capital Management, Luxul Corporation, Maryland Taxpayers' Association.

Masimo Corporation, Massachusetts Biotechnology Council, Massachusetts Medical Device Industry Council (MassMEDIC), Maxygen Inc., MDMA—Medical Device Manufacturer's Association, Medical College of Wisconsin, MedImmune, Inc., Medtronic, Merck, Metabasis Therapeutics, Inc.,

Metabolex, Inc., Metacure (USA), Inc., MGI Pharma Inc., MichBio, Michigan Small Tech Association, Michigan State University, Millennium Pharmaceuticals, Inc., Milliken & Company, Mohr, Davidow Ventures, Monsanto Company.

NAM—National Association of Manufacturers, NanoBioMagnetics, Inc. (NBMI), NanoBusiness Alliance, NanoInk, Inc., NanoIntegris, Inc., Nanomix, Inc., Nanophase Technologies, NanoProducts Corporation, Nanosys, Inc., Nantero, Inc., National Center for Public Policy Research, Nektar Therapeutics, Neoconix, Inc., Neuro Resource Group (NRG), Neuronetics, Inc., NeuroPace, New England Innovation Alliance, New Hampshire Biotechnology Council, New Hampshire Department of Economic Development, New Mexico Biotechnical and Biomedical Association, New York Biotechnology Association.

Norseman Group, North Carolina Biosciences Organization, North Carolina State University, North Dakota State University, Northrop Grumman Corporation, Northwestern University, Novartis, Novartis Corporation, Novasys Medical Inc., NovoNordisk, NUCRYST Pharmaceuticals, Inc. NuVasive, Inc., Nuvelo, Inc., Ohio State University, OpenCEL, LLC.

Palmetto Biotechnology Alliance, Patent Café.com, Inc., Patent Office Professional Association, Pennsylvania Bio, Pennsylvania State University, PepsiCo, Inc., Pfizer, PhRMA—Pharmaceutical Research and Manufacturers of America, Physical Sciences Inc., PointeCast Corporation, Power Innovations International, PowerMetal Technologies, Inc., Preformed Line Products, Procter & Gamble, Professional Inventors' Alliance, ProRhythm, Inc., Purdue University, Pure Plushy Inc., QUALCOMM Inc.

QuantumSphere, Inc., QuesTek Innovations LLC, Radiant Medical, Inc., Rensselaer Polytechnic Institute, Research Triangle Park, NC, Retractable Technologies, Inc., RightMarch.com, S & C Electric Company, Salix Pharmaceuticals, Inc., SanDisk Corporation, Sangamo BioSciences, Inc., Semprius, Inc., Small Business Association of Michigan—Economic Development Center, Small Business Exporters Association of the United States.

Small Business Technology Council, Smart Bomb Interactive, Smile Reminder, SmoothShapes, Inc., Solera Networks, South Dakota Biotech Association, Southern California Biomedical Council, Spiration, Inc., Standup Bed Company, State of New Hampshire Department of Resources and Economic Development, Stella Group, Ltd., StemCells, SurgiQuest, Inc.

Symyx Technologies, Inc., Tech Council of Maryland/MdBio, Technology Patents & Licensing, Tennessee Biotechnology Association, Tessera, Inc., Texas A&M, Texas Healthcare, Texas Instruments, Three Arch Partners.

United Technologies, University of California System, University of Illinois, University of Iowa, University of Maryland, University of Michigan, University of Minnesota, University of New Hampshire, University of North Carolina System, University of Rochester, University of Utah, University of Wisconsin-Madison, US Business and Industry Council, US Council for International Business.

USGI Medical, USW—United Steelworkers, Vanderbilt University and Medical Center, Virent Energy Systems, Inc., Virginia Biotechnology Association, Visidyne, Inc., VisionCare Ophthalmologic Technologies, Inc., Washington Biotechnology & Biomedical Association, Washington University, WaveRx, Inc.

Wayne State University, Wescor, Inc., Weyerhaeuser, Wilson Sonsini Goodrich &

Rosati, Wisconsin Alumni Research Foundation (WARF), Wisconsin Biotechnology and Medical Device Association, Wyeth.

And we know there are many, many people who have strong reservations, even by the wording of what we have heard from the other side of this debate, that there are people who have serious questions, even though they may not officially be in opposition.

Well, if there are so many serious questions around that we have amendments like that of Mr. PENCE and the other amendments that we've heard, we shouldn't be having this bill on this floor at this time, much less muzzling the opposition so we have only an hour to debate on the central issues of the bill. Instead, we have had to argue our case hamper-scamper here as opposition to the amendment to the bill only to get time to offer a few objections. That's not the way this system is supposed to work. And it's not supposed to work that we bring bills to the floor and ask Members to vote on it so that we can fix it later on. That should raise flags for everybody that there is something to fix in this bill. And the fact that this bill has been brought to the floor very quickly and that debate has been limited, that alone should cause people to want to vote "no" on H.R. 1908 and send it back to committee and see if we can have a bill that doesn't require Mr. PENCE to be up here.

And also this, before I yield to Ms. KAPTUR: Yes, there are problems with the Patent Office, as has been described. Bad patents are being issued. This bill does nothing to cure that. What this bill does is use that as a cover to fundamentally change the rules of the game that are going to help those huge corporations that Ms. KAPTUR talked about, as well as the overseas people who are waiting to steal our technology.

We can correct those problems, and I would support that. You bring a bill to the floor that gives more money to the patent examiners, more training to the patent examiners, keeps the money that goes into the Patent Office there to improve the system, you're going to have lots of support. But don't use the imperfections of the Patent Office as an excuse to change the fundamental protections for American inventors.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentleman for yielding and rise in opposition to the amendment.

I wanted to point out that in every year when patents are granted the very small number of lawsuits that are generated as a result of that. For example, in the year 2006, there were 183,000 patents granted; 1.47 percent actually ended up in some type of lawsuit, and most of those lawsuits were settled before trial.

The current system is working very well for the majority of inventors as lawsuits have represented that smaller percentage going back as far as the eye can see.

I would like to place on the RECORD those facts that, in fact, lawsuits are a minuscule percent of all patents reviewed and granted. And I would also like to place on the RECORD from the United States Court of Appeals the following letter from the chief judge who states that the present bill creates a new type of macroeconomic analysis that would be extremely costly and time consuming, far more so than current application of the well-settled apportionment law.

TABLE FOUR—PATENTS GRANTED AND LAWSUITS COMMENCED
(FY 1992–2006)

Fiscal Year	Patents Granted	Patents Suits Commenced	Lawsuits as a Percent of Patents Granted
2006	183,000	2,700	1.47
2005	165,000	2,720	1.64
2004	187,000	3,075	1.64
2003	190,000	2,814	1.48
2002	177,000	2,700	1.52
2001	188,000	2,520	1.32
2000	182,000	2,484	1.36
1999	159,000	2,318	1.45
1998	155,000	2,218	1.43
1997	123,000	2,112	1.71
1996	117,000	1,840	1.57
1995	114,000	1,723	1.51
1994	113,000	1,617	1.43
1993	107,000	1,553	1.45

Sources: Data from the patents Granted is from USPTO Annual Reports. Data for lawsuits commence is from the Federal Judicial Statistics. The lawsuit data is as of March 31 of each year. The patents granted data is as of the Federal Fiscal Year. While the data is skewed by the different times used for the reporting years, a long-term view is created for this 14-year period. The author calculated the ratios.

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT,
Washington, DC, June 7, 2007.

SHANA A. WINTERS,
Rayburn House Office Building,
Washington, DC.

DEAR MS. WINTERS: Thank you for your telephone call yesterday afternoon concerning determining damages in patent infringement cases under the reasonable royalty language of the Patent Act. As promised, I have since reviewed some of the Federal Circuit decisions that address aspects of this subject, and I have also identified and attached an article that should help you more than reading individual opinions. Significantly, it was written by a seasoned patent litigator with direct experience in how such damage theories are actually litigated in court. Lawyers employed by particular companies, like most law professors, have little or no experience from that perspective. Mr. Rooklidge, by contrast, has several decades of litigation experience in precisely these types of cases.

His article was written since late April and may be the most current available on the subject. It is certainly clear and comprehensive. In addition, it references some of the testimony before your subcommittee in April, as well as the specific language of the pending bills.

The footnotes cite other useful sources you may wish to consult, including authoritative treatises by practitioner Robert Harmon and Professor Donald Chisum, and several recent articles on the point. They provide further background, which you may find helpful.

If the House Judiciary Committee intends to continue the damages law as currently practiced, after decades of refinement in individual court decisions, it need do nothing. This body of law is highly stable and well understood by litigators as well as judges. If, on the other hand, the Congress wishes to radically change the law, I suggest that a far more carefully-crafted and lengthy provision

would be required. Like the body of caselaw, such a provision would need to account for many different types of circumstances, which the present provision does not.

In my opinion, plucking limited language out of the long list of factors summarized in the Georgia Pacific case that may be relevant in various cases is unsatisfactory, particularly when cast as a rigid requirement imposed on the court, and required in every case, rather than an assignment of a burden of proof under a clear standard of proof imposed on the party that should bear that particular burden, and that would only arise in a rare case. As I said, under current caselaw, the burden of apportioning the base for reasonable royalties falls on the infringer, while the burden for application of the Entire Market Value Rule falls on the patentee. In most cases, apportionment is not an issue requiring analysis.

Further, as I also attempted to explain, the present bills require a new, kind of macroeconomic analysis that would be extremely costly and time consuming, far more so than current application of the well-settled apportionment law. Resulting additional court delays would be severe, as would additional attorneys' fees and costs. Many view current delays and costs as intolerable.

In short, the current provision has the following shortcomings. First, it requires a massive damages trial in every case and does so without an assignment of burden of proof on the proper party and articulation of a clear standard of proof associated with that burden. Second, the analysis required is vastly more complicated than that done under current law. Third, the meaning of various phrases in the bills would be litigated for many years creating an intervening period of great uncertainty that would discourage settlements of disputes without litigation or at least prior to lengthy and expensive trials.

I appreciate your call and your effort to better understand the gap between current law and practice, and what the bills would require. I am of course available if you need further assistance in understanding the reality behind my May letter to the Chairman.

Sincerely,

PAUL R. MICHEL,
Chief Judge.

This gentleman's amendment, as well as the underlying bill, would result in additional court delays that could be severe and would probably result in additional attorney fees and costs, and those additional costs are intolerable. We are actually charging more for inventors to maintain their inventions. We tried to stop that several years ago and were unsuccessful in doing that.

□ 1445

And now we are, in this bill, creating a more complicated legal system that is going to cost them more money. We have a system that works. We have the best patent system in the world. We have the most innovation in the world.

I hope this bill goes down to defeat so we can make it much, much better. We had a system where we protect the inventor if they wish to opt out of having their intellectual property put up on the Internet, they have the right to do that. This bill takes that away. It is one of the most egregious parts of this bill that should be fixed.

I thank the gentleman for yielding.

Mr. ROHRBACHER. How much more time is left in this debate?

The Acting CHAIRMAN. The gentleman from California now has 30 seconds remaining. The time of the gentleman from Indiana has expired.

Mr. ROHRBACHER. I would yield myself the right to close, and this is the final, I guess, arguments in this debate.

We can correct the flaws at the Patent Office. We do not need to destroy the American patent system as it has functioned for 200 years. We do not need to make all of our inventors vulnerable to foreign theft so foreigners and large corporations can steal their creative genius and use it against us. That is what this bill does. It is being foisted off on us. The process has been flawed. As we can see, we have had limited debate. They brought this to the floor admitting there are flaws in the bill. We need to defeat the Steal American Technologies Act and go back and work on it so we can make real reform rather than a bill that is going to help America's economic adversaries.

I would ask my colleagues to join me in supporting the little guy against the big guy and demonstrating that that is the rules of the game here.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. PENCE).

The amendment was agreed to.

Mr. ROHRBACHER. Mr. Chairman, I ask unanimous consent to withdraw my requests for recorded votes on the amendments numbered 2, 3 and 4, to the end that each such amendment stand disposed of by the voice vote thereon.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT NO. 1 OFFERED BY MR. CONYERS

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on the amendment on which further proceedings were postponed.

The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. CONYERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 263, noes 136, not voting 38, as follows:

[Roll No. 862]

AYES—263

Abercrombie	Arcuri	Barrow
Ackerman	Baca	Bean
Allen	Bachus	Becerra
Altmire	Baird	Berkley
Andrews	Baldwin	Berman

Berry	Gutierrez	Pastor
Bishop (GA)	Hall (NY)	Payne
Bishop (NY)	Harman	Pence
Blumenauer	Hastings (FL)	Perlmutter
Bono	Hastings (WA)	Peterson (MN)
Bordallo	Heller	Peterson (PA)
Boren	Hensarling	Pomeroy
Boswell	Herseth Sandlin	Porter
Boucher	Higgins	Price (GA)
Boyd (KS)	Hinche	Price (NC)
Brady (PA)	Hinojosa	Pryce (OH)
Brady (TX)	Hirono	Putnam
Braley (IA)	Hoekstra	Rahall
Brown (SC)	Honda	Ramstad
Brown, Corrine	Hoyer	Rangel
Butterfield	Inslie	Reyes
Campbell (CA)	Israel	Richardson
Cannon	Issa	Rodriguez
Cantor	Jackson (IL)	Rogers (KY)
Capito	Jackson-Lee	Ros-Lehtinen
Capps	(TX)	Ross
Capuano	Jefferson	Roybal-Allard
Cardoza	Johnson (GA)	Ruppersberger
Carson	Kagen	Rush
Castor	Kanjorski	Ryan (WI)
Chandler	Keller	Sali
Clarke	Kennedy	Sánchez, Linda
Clay	Kilpatrick	T.
Cleaver	Kind	Sarbanes
Clyburn	King (NY)	Schakowsky
Coble	Kirk	Schiff
Cohen	Klein (FL)	Schwartz
Conaway	Langevin	Scott (GA)
Conyers	Lantos	Scott (VA)
Cooper	Larsen (WA)	Sensenbrenner
Costa	Larson (CT)	Serrano
Costello	Lee	Sessions
Crowley	Levin	Sestak
Cuellar	Lewis (GA)	Sherman
Culberson	Lofgren, Zoe	Shuster
Cummings	Lowe	Simpson
Davis (AL)	Lungren, Daniel	Sires
Davis (IL)	E.	Skelton
Davis (KY)	Lynch	Slaughter
Davis, Lincoln	Maloney (NY)	Smith (NE)
Davis, Tom	Markey	Smith (NJ)
DeFazio	Marshall	Smith (TX)
DeGette	Matheson	Smith (WA)
Delahunt	Matsui	Snyder
DeLauro	McCarthy (CA)	Solis
Diaz-Balart, L.	McCarthy (NY)	Space
Diaz-Balart, M.	McCaul (TX)	Spratt
Dicks	McCollum (MN)	Stark
Dingell	McGovern	Stupak
Doggett	McKeon	Sutton
Donnelly	McMorris	Tanner
Doolittle	Rodgers	Tauscher
Doyle	McNerney	Thompson (CA)
Drake	McNulty	Thompson (MS)
Dreier	Meek (FL)	Thornberry
Edwards	Meeks (NY)	Tiahrt
Ellison	Miller (MI)	Tierney
Emanuel	Miller (NC)	Towns
Engel	Miller, George	Udall (CO)
Eshoo	Mitchell	Udall (NM)
Faleomavaega	Mollohan	Van Hollen
Farr	Moore (KS)	Velázquez
Fattah	Moore (WI)	Visclosky
Filner	Moran (KS)	Walden (OR)
Flake	Moran (VA)	Walz (MN)
Forbes	Murphy (CT)	Wasserman
Fortenberry	Murphy, Patrick	Schultz
Fossella	Murtha	Waters
Frank (MA)	Musgrave	Watt
Galleghy	Myrick	Waxman
Giffords	Nadler	Weiner
Gilchrest	Napolitano	Welch (VT)
Gillibrand	Neal (MA)	Wexler
Gohmert	Neugebauer	Wilson (OH)
Gonzalez	Norton	Wolf
Goodlatte	Oberstar	Wu
Gordon	Obey	Wynn
Green, Al	Olver	Yarmuth
Green, Gene	Ortiz	
Grijalva	Pascrell	

NOES—136

Aderholt	Bonner	Carnahan
Akin	Boozman	Carney
Alexander	Boustany	Castle
Bachmann	Brown (GA)	Chabot
Bartlett (MD)	Brown-Waite,	Cole (OK)
Barton (TX)	Ginny	Courtney
Biggart	Buchanan	Cramer
Bilbray	Burgess	Crenshaw
Bilirakis	Burton (IN)	Davis (CA)
Blackburn	Buyer	Davis, David
Blunt	Calvert	Deal (GA)
Boehner	Camp (MI)	Dent

Duncan	Kline (MN)	Platts
Ehlers	Knollenberg	Poe
Emerson	Kucinich	Radanovich
English (PA)	Kuhl (NY)	Regula
Etheridge	LaHood	Rehberg
Everett	Lamborn	Renzi
Fallin	Lampson	Rogers (AL)
Feeney	Latham	Rogers (MI)
Ferguson	LaTourette	Rohrabacher
Fox	Lewis (CA)	Roskam
Franks (AZ)	Lewis (KY)	Rothman
Frelinghuysen	Linder	Ryan (OH)
Garrett (NJ)	Lipinski	Saxton
Gerlach	LoBiondo	Schmidt
Gingrey	Loebach	Shadegg
Goode	Lucas	Shea-Porter
Graves	Mack	Shuler
Hall (TX)	Mahoney (FL)	Souder
Hare	Manzullo	Stearns
Hayes	Marchant	Taylor
Herger	McCotter	Terry
Hill	McCrery	Tiberi
Hobson	McHenry	Turner
Hodes	McHugh	Upton
Holt	McIntyre	Walberg
Hunter	Melancon	Wamp
Johnson (IL)	Mica	Weldon (FL)
Johnson, E. B.	Michaud	Westmoreland
Jones (NC)	Miller (FL)	Whitfield
Jordan	Miller, Gary	Wicker
Kaptur	Murphy, Tim	Wilson (NM)
Kildee	Nunes	Wilson (SC)
King (IA)	Petri	Young (FL)
Kingston	Pitts	

NOT VOTING—38

Baker	Hooley	Royce
Barrett (SC)	Hulshof	Salazar
Bishop (UT)	Inglis (SC)	Sanchez, Loretta
Boyd (FL)	Jindal	Shays
Carter	Johnson, Sam	Shimkus
Christensen	Jones (OH)	Sullivan
Cubin	McDermott	Tancred
Davis, Jo Ann	Pallone	Walsh (NY)
Ellsworth	Paul	Watson
Fortuño	Pearce	Weller
Granger	Pickering	Woolsey
Hastert	Reichert	Young (AK)
Holden	Reynolds	

□ 1511

Messrs. AKIN, HODES, BOEHNER, POE, BURTON of Indiana, HOLT and RYAN of Ohio changed their vote from “aye” to “no.”

Messrs. KIRK, MEEKS of New York, MCCARTHY of California and GILCHREST changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. INGLIS of South Carolina. Mr. Chairman, on rollcall No. 862 I was unavoidably detained. Had I been present, I would have voted “no.”

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. POMEROY) having assumed the chair, Mr. ROSS, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1908) to amend title 35, United States Code, to provide for patent reform, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROHRBACHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 1908 will be followed by a 5-minute vote on adopting the conference report to accompany H.R. 2669.

The vote was taken by electronic device, and there were—ayes 220, noes 175, not voting 37, as follows:

[Roll No. 863]

AYES—220

Ackerman	Dicks	Lantos
Allen	Dingell	Larsen (WA)
Andrews	Doggett	Larsen (CT)
Arcuri	Doolittle	Lee
Bachus	Doyle	Levin
Baird	Drake	Lewis (GA)
Baldwin	Dreier	Lofgren, Zoe
Barrow	Edwards	Lowey
Bean	Ellison	Lungren, Daniel E.
Becerra	Emanuel	Lynch
Berkley	Engel	Maloney (FL)
Berman	Eshoo	Maloney (NY)
Bishop (GA)	Farr	Marchant
Bishop (NY)	Fattah	Markley
Blumenauer	Filner	Marshall
Bonner	Forbes	Matheson
Bono	Fortenberry	Matsui
Boren	Fossella	McCarthy (CA)
Boswell	Frank (MA)	McCarthy (NY)
Boucher	Gallegly	McCaul (TX)
Boyd (KS)	Giffords	McGovern
Brady (PA)	Gilchrest	McKeon
Brady (TX)	Gillibrand	McMorris
Braley (IA)	Gonzalez	Rodgers
Brown, Corrine	Goodlatte	McNerney
Butterfield	Gordon	Meek (FL)
Campbell (CA)	Green, Al	Meeks (NY)
Cannon	Green, Gene	Miller (NC)
Cantor	Gutierrez	Miller, George
Capito	Hall (NY)	Mitchell
Capps	Harman	Moore (KS)
Cardoza	Hastings (FL)	Moran (VA)
Carson	Hastings (WA)	Murphy (CT)
Castor	Heller	Murtha
Chandler	Hensarling	Musgrave
Clay	Herger	Nadler
Cleaver	Hinojosa	Napolitano
Clyburn	Honda	Neal (MA)
Coble	Hoyer	Neugebauer
Cohen	Inslee	Nunes
Conyers	Israel	Obeys
Cooper	Issa	Ortiz
Costa	Jackson (IL)	Pence
Crowley	Jackson-Lee	Perlmutter
Cuellar	(TX)	Peterson (PA)
Culberson	Jefferson	Pomeroy
Cummings	Johnson (GA)	Porter
Davis (AL)	Kagen	Price (GA)
Davis (IL)	Keller	Pryce (OH)
Davis, Lincoln	Kennedy	Putnam
Davis, Tom	Kilpatrick	Radanovich
DeGette	Kind	Reyes
Delahunt	King (NY)	Richardson
Diaz-Balart, L.	Klein (FL)	Rodriguez
Diaz-Balart, M.	Langevin	

Rogers (KY)	Simpson	Udall (CO)
Ross	Skelton	Udall (NM)
Roybal-Allard	Slaughter	Van Hollen
Ruppersberger	Smith (NJ)	Velázquez
Rush	Smith (TX)	Walden (OR)
Ryan (WI)	Smith (WA)	Walz (MN)
Sali	Snyder	Wasserman
Sánchez, Linda T.	Solis	Schultz
Sarbanes	Space	Waters
Schakowsky	Spratt	Watt
Schiff	Stark	Waxman
Scott (GA)	Stupak	Weiner
Scott (VA)	Sutton	Welch (VT)
Sensenbrenner	Tanner	Wexler
Serrano	Tauscher	Wicker
Sessions	Thompson (CA)	Wilson (NM)
Sestak	Thompson (MS)	Wolf
Sherman	Thornberry	Wu
Shuster	Tiahrt	Wynn
	Towns	Yarmuth

NOES—175

Abercrombie	Frelinghuysen	Michaud
Aderholt	Garrett (NJ)	Miller (FL)
Akin	Gerlach	Miller (MI)
Alexander	Gingrey	Miller, Gary
Altmire	Gohmert	Mollohan
Baca	Goode	Moore (WI)
Bachmann	Graves	Moran (KS)
Bartlett (MD)	Grijalva	Murphy, Patrick
Barton (TX)	Hall (TX)	Murphy, Tim
Berry	Hare	Myrick
Biggert	Hayes	Oberstar
Bilbray	Herseeth Sandlin	Oliver
Bilirakis	Higgins	Pascarell
Blackburn	Hill	Pastor
Blunt	Hinchee	Payne
Boehner	Hirono	Peterson (MN)
Boozman	Hobson	Petri
Boustany	Hodes	Pitts
Broun (GA)	Hoekstra	Platts
Brown (SC)	Holt	Poe
Brown-Waite,	Hunter	Price (NC)
Ginny	Inglis (SC)	Rahall
Buchanan	Johnson (IL)	Ramstad
Burgess	Johnson, E. B.	Regula
Burton (IN)	Jones (NC)	Rehberg
Buyer	Jordan	Renzi
Calvert	Kanjorski	Rogers (AL)
Camp (MI)	Kaptur	Rogers (MI)
Capuano	Kildee	Rohrabacher
Carney	King (IA)	Ros-Lehtinen
Castle	Kingston	Roskam
Chabot	Kirk	Rothman
Clarke	Kline (MN)	Ryan (OH)
Cole (OK)	Knollenberg	Saxton
Conaway	Kucinich	Schmidt
Costello	Kuhl (NY)	Schwartz
Courtney	LaHood	Shadegg
Cramer	Lamborn	Shea-Porter
Crenshaw	Lampson	Shuler
Davis (CA)	Latham	Sires
Davis (KY)	LaTourette	Smith (NE)
Davis, David	Lewis (CA)	Souder
Deal (GA)	Lewis (KY)	Stearns
DeFazio	Linder	Taylor
DeLauro	Lipinski	Terry
Dent	LoBiondo	Tiberi
Donnelly	Loebsack	Tierney
Duncan	Lucas	Turner
Ehlers	Mack	Upton
Emerson	Manzullo	Visclosky
English (PA)	McCollum (MN)	Walberg
Etheridge	McCotter	Wamp
Everett	McCrery	Weldon (FL)
Fallin	McHenry	Westmoreland
Feeney	McHugh	Whitfield
Ferguson	McIntyre	Wilson (OH)
Flake	McNulty	Wilson (SC)
Foxx	Melancon	Young (FL)
Franks (AZ)	Mica	

NOT VOTING—37

Baker	Hulshof	Salazar
Barrett (SC)	Jindal	Sanchez, Loretta
Bishop (UT)	Johnson, Sam	Shays
Boyd (FL)	Jones (OH)	Shimkus
Carnahan	McDermott	Sullivan
Carter	Pallone	Tancredo
Cubin	Paul	Walsh (NY)
Davis, Jo Ann	Pearce	Watson
Ellsworth	Pickering	Weller
Granger	Rangel	Woolsey
Hastert	Reichert	Young (AK)
Holden	Reynolds	
Hooley	Royce	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1530

Mr. OLVER and Mr. FLAKE changed their vote from “aye” to “no.”

Mr. SERRANO changed his vote from “no” to “aye.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2669, COLLEGE COST REDUCTION AND ACCESS ACT

The SPEAKER pro tempore. The unfinished business is the question on adoption of the conference report on the bill, H.R. 2669, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 292, nays 97, not voting 43, as follows:

[Roll No. 864]

YEAS—292

Abercrombie	Costa	Hayes
Ackerman	Costello	Heller
Aderholt	Courtney	Herseeth Sandlin
Allen	Cramer	Higgins
Altmire	Crowley	Hinchee
Andrews	Cuellar	Hinojosa
Arcuri	Cummings	Hirono
Baca	Davis (AL)	Hobson
Baird	Davis (CA)	Hodes
Baldwin	Davis (IL)	Holt
Barrow	Davis, Lincoln	Honda
Bean	Davis, Tom	Hoyer
Becerra	DeFazio	Inglis (SC)
Berkley	DeGette	Inslee
Berman	Delahunt	Israel
Berry	DeLauro	Jackson (IL)
Biggert	Dent	Jackson-Lee
Bilirakis	Diaz-Balart, L.	(TX)
Bishop (GA)	Diaz-Balart, M.	Jefferson
Bishop (NY)	Dingell	Johnson (GA)
Blumenauer	Doggett	Johnson (IL)
Bono	Donnelly	Johnson, E. B.
Boozman	Edwards	Jones (NC)
Boren	Ellison	Kagen
Boswell	Emanuel	Kanjorski
Boucher	Emerson	Kaptur
Boyd (KS)	Engel	Keller
Brady (PA)	English (PA)	Kennedy
Braley (IA)	Eshoo	Kildee
Brown (SC)	Etheridge	Kilpatrick
Brown, Corrine	Fallin	Kind
Brown-Waite,	Farr	King (NY)
Ginny	Fattah	Kirk
Buchanan	Ferguson	Klein (FL)
Butterfield	Filner	Knollenberg
Buyer	Forbes	Kucinich
Camp (MI)	Fortenberry	Kuhl (NY)
Capito	Fossella	LaHood
Capps	Frank (MA)	Lampson
Capuano	Frelinghuysen	Langevin
Cardoza	Gerlach	Lantos
Carnahan	Giffords	Larsen (WA)
Carney	Gilchrest	Larson (CT)
Carson	Gillibrand	LaTourette
Castle	Gohmert	Lee
Castor	Gonzalez	Levin
Chandler	Gordon	Lewis (GA)
Clarke	Graves	Lipinski
Clay	Green, Al	LoBiondo
Cleaver	Grijalva	Loebsack
Clyburn	Gutierrez	Lofgren, Zoe
Cohen	Hall (NY)	Lowey
Conyers	Hare	Lucas
Cooper	Harman	Lynch
	Hastings (FL)	Mahoney (FL)

Maloney (NY)	Peterson (PA)	Slaughter
Markey	Petri	Smith (NJ)
Marshall	Platts	Smith (WA)
Matheson	Pomeroy	Snyder
Matsui	Porter	Solis
McCarthy (CA)	Price (NC)	Space
McCarthy (NY)	Pryce (OH)	Spratt
McCaul (TX)	Rahall	Stark
McCollum (MN)	Ramstad	Stearns
McCotter	Rangel	Stupak
McGovern	Regula	Sutton
McHugh	Rehberg	Tanner
McIntyre	Renzi	Tauscher
McNerney	Reyes	Taylor
McNulty	Richardson	Thompson (CA)
Meek (FL)	Rodriguez	Thompson (MS)
Meeks (NY)	Rogers (AL)	Tiahrt
Melancon	Rogers (KY)	Tiberi
Michaud	Rogers (MI)	Tierney
Miller (MI)	Ros-Lehtinen	Towns
Miller (NC)	Ross	Turner
Miller, George	Rothman	Udall (CO)
Mitchell	Roybal-Allard	Udall (NM)
Mollohan	Ruppersberger	Upton
Moore (KS)	Rush	Van Hollen
Moore (WI)	Ryan (OH)	Velázquez
Moran (KS)	Sánchez, Linda	Visclosky
Moran (VA)	T.	Walden (OR)
Murphy (CT)	Sarbanes	Walz (MN)
Murphy, Patrick	Saxton	Wasserman
Murphy, Tim	Schakowsky	Schultz
Murtha	Schiff	Watt
Nadler	Schwartz	Waxman
Napolitano	Scott (GA)	Weiner
Neal (MA)	Scott (VA)	Welch (VT)
Oberstar	Serrano	Wexler
Obey	Sestak	Whitfield
Olver	Shea-Porter	Wilson (NM)
Ortiz	Sherman	Wilson (OH)
Pascarell	Shuler	Wolf
Pastor	Shuster	Wu
Payne	Simpson	Wynn
Perlmutter	Sires	Yarmuth
Peterson (MN)	Skelton	

NAYS—97

Akin	Feeney	Miller (FL)
Alexander	Flake	Miller, Gary
Bachmann	Fox	Musgrave
Bachus	Franks (AZ)	Myrick
Bartlett (MD)	Gallely	Neugebauer
Barton (TX)	Garrett (NJ)	Nunes
Bilbray	Gingrey	Pence
Bishop (UT)	Goode	Pitts
Blackburn	Goodlatte	Poe
Blunt	Hall (TX)	Price (GA)
Boehner	Hastings (WA)	Putnam
Bonner	Hensarling	Radanovich
Boustany	Herger	Rohrabacher
Brady (TX)	Hoekstra	Roskam
Broun (GA)	Hunter	Ryan (WI)
Burgess	Issa	Sali
Burton (IN)	Jordan	Schmidt
Calvert	King (IA)	Sensenbrenner
Campbell (CA)	Kline (MN)	Sessions
Cannon	Lamborn	Shadegg
Cantor	Latham	Smith (NE)
Chabot	Lewis (CA)	Souder
Coble	Lewis (KY)	Terry
Conaway	Lungren, Daniel	Thornberry
Crenshaw	E.	Walberg
Culberson	Mack	Wamp
Davis (KY)	Manzullo	Weldon (FL)
Davis, David	Marchant	Westmoreland
Deal (GA)	McCrery	Wicker
Doolittle	McHenry	Wilson (SC)
Drake	McKeon	Young (FL)
Dreier	McMorris	
Duncan	Rodgers	
Ehlers	Mica	

NOT VOTING—43

Baker	Hoolley	Salazar
Barrett (SC)	Hulshof	Sanchez, Loretta
Boyd (FL)	Jindal	Shays
Carter	Johnson, Sam	Shimkus
Cubin	Jones (OH)	Smith (TX)
Davis, Jo Ann	Kingston	Sullivan
Dicks	Linder	Tancredo
Doyle	McDermott	Walsh (NY)
Ellsworth	Pallone	Waters
Everett	Paul	Watson
Granger	Pearce	Weller
Green, Gene	Pickering	Woolsey
Hastert	Reichert	Young (AK)
Hill	Reynolds	
Holden	Royce	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1538

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. REYNOLDS. Mr. Speaker, on Friday, September 7, 2007, I was unavoidably absent during rollcall vote No. 864.

Had I been present, I would have voted "yea" on rollcall vote No. 864.

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall No. 864, the higher education conference report, had I been present, I would have voted "yea."

Mr. SMITH of Texas. Mr. Speaker, if I were present during the vote on the conference report on H.R. 2669, the "College Cost Reduction Act," I would have voted "yes."

PERSONAL EXPLANATION

Mr. SHAYS. Mr. Speaker, on September 7, 2007, I missed 3 recorded votes.

I take my voting responsibility very seriously. Had I been present, I would have voted "no" on recorded vote number 862, "no" on recorded vote 863 and "yea" on recorded vote 864.

PERSONAL EXPLANATION

Mr. CARTER. Mr. Speaker, on September 7, 2007, I was unable to be present for all rollcall votes due to a family medical emergency.

If present, I would have voted accordingly on the following rollcall votes: Roll No. 860—"nay"; roll No. 861—"nay"; roll No. 862—"aye"; roll No. 863—"aye"; roll No. 864—"nay".

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material on H.R. 1908.

The SPEAKER pro tempore (Mr. ELLISON). Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1908, PATENT REFORM ACT OF 2007

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 1908, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make other technical and conforming changes as necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. YARMUTH. Mr. Speaker, I ask unanimous consent to allow 5 legislative days in which Members may revise and extend and place extraneous material relevant to the conference report on H.R. 2669 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2642. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2642) "An Act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSON, Mr. INOUE, Ms. LANDRIEU, Mr. BYRD, Mrs. MURRAY, Mr. REED, Mr. NELSON (NE), Mr. LEAHY, Mrs. HUTCHISON, Mr. CRAIG, Mr. BROWNBACK, Mr. ALLARD, Mr. MCCONNELL, Mr. BENNETT, and Mr. COCHRAN, to be the conferees on the part of the Senate.

LEGISLATIVE PROGRAM

(Mr. BLUNT asked and was given permission to address the House for 1 minute.)

Mr. BLUNT. Mr. Speaker, I yield to my good friend, the majority leader, the gentleman from Maryland (Mr. HOYER), to give us the information about next week's schedule.

Mr. HOYER. Mr. Speaker, I thank my friend for yielding.

On Monday, the House will meet at 10:30 a.m. for morning hour business and noon for legislative business, with votes rolled until 6:30 p.m. In addition to several bills under suspension of the rules, a list of those bills of course will be made available by the close of business today, we will consider a resolution in commemoration of the terrorist attack on September 11, 2001.

On Tuesday, the House will meet at 10:30 a.m. in a pro forma session. There will be no votes. No legislative business or votes are expected. The tragic loss of Mr. Gillmor saddened us all. His funeral is on that day, and many Members will be attending. It will take place that morning in Ohio.

There will later in the day, when those who are going to Ohio return, on the steps of the Capitol at 4:30 p.m. be a meeting of the Members who are here from both the Senate and the House in remembrance of those who lost their lives on September 11, 2001, in that tragic and vicious attack on our country and on so many innocent people.

The House will not meet on Wednesday or Thursday in observance of Rosh Hashanah and will meet at 10 a.m. in pro forma session on Friday, and I thank the gentleman for yielding.

Mr. BLUNT. I thank the gentleman. I also thank the gentleman for his accommodation to the schedule. I know I want to go and many other Members will want to attend the memorial service for our good friend Paul Gillmor who did so much work for his constituents in this House, and I know in an already short week that was a real challenge to be able to figure out what we should do and how we should do it.

My understanding now is, just to repeat some of what you said, that in addition to the 9/11 commemoration resolution on Monday, everything else on Monday on the floor will be a suspension vote.

Mr. HOYER. Would the gentleman yield?

Mr. BLUNT. I would yield.

Mr. HOYER. Yes, that is our intention. There will be suspension votes so that we do not have a lot of controversy.

I will say, however, as the gentleman well knows, that Monday will be a very important day because General Petraeus and Ambassador Crocker will be on Capitol Hill on the House side testifying on their report to the Congress and to the American people with respect to their analysis of the present situation in Iraq and the present situation of our troops and the security and stability of that country.

So it will be a very important day, but the gentleman is correct, we will not be scheduling other than suspension votes for that Monday, and there will be no votes on Tuesday in recognition of the funeral and that so many Members will be attending the funeral.

Mr. BLUNT. I thank the gentleman for that. I was being asked by one of my colleagues, because of the importance of the Petraeus and Crocker testimony, if there was any way that could be moved to the House floor for the hearing, but I'm assuming that we'll have work going on on the House floor on these suspension bills.

Mr. HOYER. Would the gentleman yield?

Mr. BLUNT. I would yield.

Mr. HOYER. That is correct. We will be starting legislative business on the floor a little after noon. So there will be work on the floor proceeding.

It is my understanding, however, as the gentleman may know, that the hearing is in the Cannon Caucus Room. So we'll accommodate both media and the public, and as we all know, some of the most important hearings in history

have been held in that room. So we certainly recognize the importance of this hearing, the gravity of the information that we will be receiving, and we have attempted to accommodate that.

Mr. BLUNT. It's my understanding, also, for the leader, on that hearing, not only the Members of the committee but other Members who are not on the committee will have accommodated opportunities for seating at least to be there to hear what General Petraeus and Ambassador Crocker have to say.

Mr. HOYER. That's my understanding, yes, sir.

Mr. BLUNT. I appreciate that. Only a couple of other questions about the schedule that now has largely been postponed for next week.

At one time, I think it was the original intent or at least my impression that the TRIA issue would be voted on, the extraordinary loss issue that might occur as it relates to insured property on Monday. I've been also told that there is now a PAYGO rule because of the way that bill has been calculated to have some potential costs. I wonder if we have anymore information about how quickly we may be able to get to this version of TRIA that we had hoped to be on the House floor next week, and I yield.

Mr. HOYER. I thank the gentleman for yielding. We believe the TRIA bill is a very, very important bill. Chairman FRANK has been very involved in this, as have bipartisan Members of the Financial Services Committee been involved in this. The gentleman is correct. As a result of what has happened for next week, we determined that both the FHA bill and the TRIA bill, which were both scheduled for the beginning of next week, would be moved until hopefully the following week.

□ 1545

We believe for TRIA and FHA, in light of the subprime issues, that Chairman FRANK is working with the administration. I know he has talked to Secretary Paulson with respect to their proposals and ours on ways to respond to the subprime crisis, the mortgage foreclosure crisis.

So we want to put those bills back on as soon as we can.

The TRIA bill, as you observed, has raised an issue of PAYGO, as to whether or not there is a financial consequence of the legislation. The CBO has made an estimate. Clearly, however, there is no payout if a terrorist attack doesn't happen, so there is a contingency it would have to happen. We are trying to address that, which we did not anticipate, frankly. As a result, however, we are trying to look at this to see whether or not we can both move the legislation as quickly as possible as well as accommodate the issue of PAYGO.

Mr. BLUNT. I appreciate that answer. Another issue that my good friend and I have talked about even earlier this week is on the trade agree-

ments throughout there. We did notice that Ways and Means Committee had a hearing scheduled on the Peru Free Trade Agreement next week, which starts a clock. It would almost inevitably bring that bill to the floor on an understood date. That hearing has been scheduled. I wonder if my friend has any information on either that agreement or the other agreements out there, particularly the agreement on Colombia.

Mr. HOYER. As the gentleman well knows, there are four trade agreements that are the subject of consideration by the administration, and four of our trading partners: Peru, Panama, Colombia, as you point out, and South Korea. Those have not been transmitted to the Congress, but it does start the clock.

And in discussions with the chairman, I know the chairman has been focused. As you know, he visited Peru and Panama. I am not sure he visited Panama, I just talked with the Panamanians. Surely those two groups are the focus of the committee at this point, on Colombia, focused, as well as South Korea.

As I discussed with my friend earlier in the day, I am hopeful that the chairman, the chairman believes that Peru will be the first of those to move. We are hopeful that those, that that agreement will move, and then we will have to see the scheduling for the other three. But I do expect Peru to move, hopefully, within the next 30 days, or about, somewhere probably early next month.

Mr. BLUNT. I have a couple of other questions that are more in the long-range view of schedule. One would be on appropriations.

Mr. HOYER. I will tell the gentleman that I am not very good on long term. We found a lot of contingencies coming up.

Mr. BLUNT. This week even short term was a challenge.

Mr. HOYER. That's right.

Mr. BLUNT. But on appropriations, we have around 3 weeks left in this fiscal year. The Senate, I believe, has only passed one of their appropriations bills.

I am wondering if we can begin to anticipate in any way when we are going to have a bill or a CR, either one, that will move us to where the government continues to do what it has outlined to.

Mr. HOYER. The House, as the gentleman knows, has passed all 12 appropriation bills. I might say we did so, for the most part, with bipartisan votes, significant bipartisan votes, not necessarily a majority on each side, but significant bipartisan votes.

The Senate, as you point out, has passed two, although I understand that we just read across the desk, the military construction bill was just reported with a request to go to conference. We are hopeful that the Senate will pass other bills within the near term.

It's my understanding that the Senate does expect to be moving a number

of the appropriation bills in the next 2 weeks.

The fiscal year ends, of course, September 30. If we have not passed those appropriation bills, we will have to make an accommodation to keep the government running. We usually do that in the form of a continuing resolution, a CR, as we call it, which simply provides for the continuation of funding of government at present levels until such time as we can complete the appropriation process.

We are hopeful that we will complete the appropriation process in the near term. I won't define the near term, but we are hopeful that it will be nearer rather than further apart; but we are looking at all the alternatives that will be necessary to keep government operating as the American public expect and as we expect it.

Mr. BLUNT. On the appropriation bills, again, as I reminded the majority leader earlier today, the Republicans voting for the appropriations bills, most of them had a number of Republicans that would sustain a Presidential veto if that turns out to be the result. I would anticipate that we need to be thinking about how we move this as quickly as possible.

In that regard, the Senate has already produced a fall calendar for their Members. Our Members would benefit as early as possible to having a sense to where, if we are not going to be here in the fall, I think the Senate intends not to be here the week of Columbus Day and maybe the week of Thanksgiving and maybe the week after that. I wonder if the leader can give us any sense of when to expect a fall calendar or your views on that at this point as Members make their plans for the fall.

It appears the Senate, by the way, it appears our friends on the other side are scheduling as if they intend to be here for quite some time.

Mr. HOYER. The Members already have a fall schedule. It's the Senate that wants a winter schedule, and I am somewhat concerned about that.

As you know, initially Mr. BOEHNER, my predecessor as the majority leader, had projected October 3 or thereabouts, 4th or 5th. When I became the majority leader, it was my responsibility to address the schedule.

I thought we would need at least another 3 weeks, so I added on to, I believe, the 26th of October, which is a Friday.

Since that time, of course, the leader of the Senate has announced the schedule that you just observed, with a week off at Columbus Day. We do not have that, of course. We have Columbus Day, returning Tuesday at 6:30. That has not been modified at this point in time and, frankly, I don't expect to modify it.

It doesn't mean it won't be, but I have no plans to modify that expectation at this point in time. Frankly, I would like to see us do as much work as we possibly can by the October 26 date that we have projected as our

date. We will see where the Senate is at that point in time.

But in answer to your question about the fall schedule, sometime in the next 2 weeks, probably not this coming week, because we are not going to be here most of the time, but the following week, in discussions with the Senate, we intend to have some discussions with the Senate leadership with Mr. REID, the majority leader, next week, to determine more precisely what he anticipates being able to do, and, therefore, what our responsibilities will be to be here to respond to what the Senate does.

As I say, we put all the appropriations bills on their plate, if you will. We need to pass those, or, in some form, pass funding for the various agencies.

So the answer to your question, Mr. Whip, is that we expect to have some more precise formulation for the fall and hopefully not winter schedule by the, not next week, but the following week.

We are aware of the fact, and I used to hear from everybody, now I am hearing from everybody on both sides of the aisle, they understandably want some certainty in the scheduling so they can schedule their work in their districts.

I understand that. We are going to try to accommodate that.

Mr. BLUNT. I thank the gentleman for his response. Time in the district is important to the Members. It's better used, of course, if they can have some anticipation of that time.

My only suggestion would be that at this point in the year we normally don't know when we are going to finish, but it might be possible to come up with some blocks of time that even if we are working, we would know that we would not anticipate being here during those blocks of time. That would be helpful.

Mr. HOYER. I want to thank my friend for joining in discussions on that issue before we came to the floor today. I think the gentleman is correct. I think Members would find that useful. If we can accommodate that, I would like to do that.

Mr. BLUNT. I thank you for that information. I know we all look forward to the report early next week from Ambassador Crocker and General Petraeus. Even though, because of the focus on that schedule being here one day, I think it's an important day for Members to be here, and appreciate the fact that we have scheduled it in that way.

Mr. Speaker, I yield back the balance of my time.

ADJOURNMENT TO MONDAY, SEPTEMBER 10, 2007

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday next for morning hour debate; that when the House adjourns on that day, it adjourn

to meet at 10:30 a.m. on Tuesday, September 11; that when the House adjourns on that day, it adjourn to meet at 10 a.m. on Friday, September 14; and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Monday, September 17, for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 19, 2007

Mr. HOYER. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 19, 2007.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1600

ENOUGH IS ENOUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, the new military strategy in Iraq is simply not working. President Bush misled Congress and the American people when he led our troops into Iraq. To this day, he continues trying to mislead us, most recently with reports that violence is down in Iraq since the surge of the United States troops. This is absolutely untrue, and I am utterly shocked at the audacity of this administration and many of my Republican colleagues to so boldly manipulate the facts to serve their own political agenda.

Overall, violence in Iraq has risen since the troop surge. That's right, violence has risen.

Newly released statistics for Iraqi civilian deaths in August show a 20 percent increase since July. The President and the Pentagon are picking and choosing which numbers will be included in death tolls to give the appearance that the violence is down.

According to information from the Iraq Study Group and the Center for Strategic and International Studies, they do not count deaths of people who have been shot in the head from the front. They do not count deaths of Shiite or Shiite violence which is on the rise in the oil-rich south, nor do they count the intra-Sunni violence in the Sunni Triangle.

Mr. Speaker, it is reported they are not even counting deaths from car bombs. We read about deadly car bombs in Iraq nearly every day, and these deaths are not being counted by this administration.

I'm also greatly concerned about the Defense Department adjusting its figures for sectarian killings in the 5-month period before the surge began. There's a major discrepancy between the data on the March 2007 report and the June 2007 report for this period. The original number of approximately 5,500 deaths was increased to 7,400, offering the appearance of significantly decreased violence since the troop surge began.

I must ask, why is this administration working so hard to create the appearance of success in Iraq? Is it to justify the more than \$368 billion we have spent since the inception of Operation Iraqi Freedom? Is it to rationalize the staggering \$10 billion a month we continue to spend in Iraq while we put the lives of our brave soldiers at risk?

During every month of 2007 there have been more U.S. military fatalities than in the same month of 2006. How can anyone possibly say that this new surge is working?

Mr. Speaker, I was hopeful that the administration had perhaps begun listening to the cries of the American people to bring our troops home when reports over the last couple of weeks indicated that General Petraeus was considering a draw down of our current troop levels.

Unfortunately, we learned today that our hopes of redeployment of our military servicemembers will continue to fall on deaf ears, as General Petraeus announced earlier today that he has no intention of scaling back our troop levels in Iraq. In failing to do so, this Nation's attention will remain distracted from adequately protecting the home front, building an adequate health care system, reforming Social Security and decreasing the deficit.

Mr. Speaker, President Bush loves to talk about the success of the al Anbar province where he made a surprise visit for a photo opportunity on Labor Day. But there are many conflicting opinions about why violence has decreased, whether or not this is the result of the troop surge, and whether the success in this region is indicative of success in other more complex regions of the country.

Many believe this success may be the result of multilayered issues. It may be an indication that ethnic cleansing has been completed in many neighborhoods and that there are just not as many people left to kill. It may be the result of militants moving to other regions of the country where violence has increased. It may be the result of Sunnis befriending the United States simply as a means to accomplish a larger goal of stepping back into power. It may be the result of Sunnis finally rejecting the routine abuse by al Qaeda. It may be a combination of all of these.

Regardless, we cannot ensure that any success in al Anbar is a result of the troop surge, nor can we ensure that this success can be transferred to other parts of the country. In fact, the overriding component of ensuring success in Iraq is political reconciliation, as pointed out by the GAO and the Jones Commission before the House Armed Services Committee this week.

Military and security progress cannot be made without political reconciliation, which will open the door to resolving the underlying issues that have caused sectarian violence in Iraq.

President Bush has yet to discuss the failing grade given by the GAO to Iraq on political reconciliation.

Mr. Speaker, ignoring reports and underreporting violence is not the answer. This administration has misled the American people for far too long. Enough is enough.

IN GOD WE TRUST

The SPEAKER pro tempore (Mr. KAGEN). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I hope my colleagues can understand me. I've got a little bit of laryngitis.

Mr. Speaker, directly across from me, at the top of the Chamber is a depiction of Moses, and behind me, above the Speaker's rostrum is words, "In God We Trust."

There are a lot of people in this country who have tried to get all symbols of religion, belief in God taken off of all public properties and coins and currency. Recently, there were thousands of coins minted without "In God We Trust" on them, and now they're talking about putting "In God We Trust" in an obscure place on coins so that people can't read it, right on the edge of the coin. I think this is—we're moving in a very, very wrong direction.

This country was formed with a firm reliance on God Almighty, and when we start taking God out of everything, as some people want to do, we run the risk of having him turn his back on us. This Nation was formed and was founded with people praying every day in the Second Continental Congress when we had the Declaration of Independence and in Constitution Hall because they couldn't come to an agreement, and by prayer and supplication they were able to reach agreement; thus, we have the Declaration of Independence, and we had our Constitution that has made this country so wonderfully powerful and respected around the world for the past 250 years.

Those who try to take God off of all things governmental, such as coinage or currency or in this Chamber, are making a terrible mistake, in my opinion. And I'm going to be introducing legislation that will demand or mandate that "In God We Trust" be maintained and retained on our currency

and on our coinage in a prominent place.

Once you start turning your back on the good Lord, I think you are going to reap the whirlwind, and this is something this Nation cannot afford to do right now.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

FAA AIRSPACE REDESIGN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, the Federal Aviation Administration has come up with a proposal to redesign the airspace around New York, New Jersey and the Pennsylvania area. Despite all the opposition and all the concerns of the people affected, lo and behold, the FAA made no significant changes in their final proposal. Full steam ahead, business as usual, the public be damned.

So I stand today in strong opposition to the FAA proposal to redesign the airspace around New York, New Jersey and Philadelphia. Specifically, I am disturbed by their actions surrounding the proposal to route up to 600 airplanes a day over Rockland and West Chester Counties in New York, which I represent.

The FAA created that proposal with zero input from the people whose lives would be most harmed by this proposal. In fact, even when I brought this up to the FAA in a meeting in my office, it took over a week of urging before they would even agree to attend a public forum that I held in Rockland.

They also conducted this entire process over the course of several years without any kind of adequate notification. My constituents expected better and they deserved better.

Throughout this process, we have seen, time and time again, that the FAA would ignore the opinions and suggestions of myself and anyone else who would be affected by their proposal. Valid suggestions that would improve this proposal were written off without serious consideration.

The FAA is trying to push through a proposal that doesn't make sense, and they are refusing to accept any changes.

But the plan itself is not my only problem. The misleading tactics and the stonewalling by the FAA only add to this issue. Every effort I and my constituents and some of my colleagues have made has been met with bureaucratic resistance while, at the same time, the FAA has laid down strict deadlines for comments and changes.

Just as an example, I tried multiple times to get an answer for how loud it would be when an airplane flies over us. This is critical information since overflights will be happening up to 600 times a day. All the FAA would tell me were 24-hour noise averages, which tell me nothing. Noise averages mean nothing to us. A room could be silent for 23 hours and have a 140-decibel rock concert for an hour, and the noise average would be something around a whisper. This is just one example of the FAA providing incomplete or misleading information.

In addition, every document the FAA has sent to my office, from the original proposal to the record of decision, has been extremely complicated and vague. I've been living in New York my entire life, and I was unable to interpret the maps of where the planes would be flying over my district. If my staff and I, who are knowledgeable about the region, are unable to decipher the maps, how is the general public supposed to know where the airplanes will be flying over their homes? The answer is that they will not, and that's just what the FAA wants.

It would be easy for the FAA to publish good maps of the area. They could use maps that are labeled with names of cities, streets and bodies of water. They could draw lines of these maps signaling precisely where the planes would be flying and at what altitude, but they chose not to do so. They chose instead to provide strangely colored maps with very few labels, so it was nearly impossible to figure out where

the planes would be routed. It is this type of complex and misleading information that makes me and my constituents distrust the FAA.

And finally, let me say the agency has deliberately manipulated information that it is giving out to be public. For example, my office sent in over 25 pages of comments from over 60 constituents. We also sent in a petition signed by nearly 100 local residents, and finally, we sent 237 pages of a transcript from a public town hall meeting I held in Rockland, which was attended by well over 1,000 people. Dozens of people spoke, not one of whom supported the plan. But the spokesperson for the FAA was quoted in the newspaper claiming they had only received five comments from affected people. Five. This is dishonest. This is unacceptable from an agency that is supposed to represent all of the people in the country.

Mr. Speaker, when the Transportation-HUD appropriations bill came to the House for a vote, I strongly supported an amendment to eliminate funding for this airspace redesign proposal. I did this, not only to express my dislike for the proposal, but also to send a message to the FAA that they cannot treat Americans this way. And I will continue fighting this.

And finally, let me say to my colleagues, this may only right now concern the northeast corridor, but if the FAA can get away with running roughshod over Members of Congress, over constituents, over Americans, they can do it in any region of the country. We need to fight this. This is wrong. If it

can happen in the northeast, it will happen all over America. We must fight this plan, and I will continue to fight it.

REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON EDUCATION AND LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, pursuant to section 306 (b) of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, I hereby submit for printing in the CONGRESSIONAL RECORD revisions to the budget allocations and aggregates for the House Committee on Education and Labor for fiscal years 2007, 2008, and the period of 2008 through 2012. These revisions represent adjustments to the Committee on Education and Labor's allocations and aggregates for the purposes of sections 302 and 311 of the Congressional Budget Act of 1974, as amended, and in response to the conference report to accompany H.R. 2669, the College Cost Reduction and Access Act. Corresponding tables are attached.

Under section 211 of S. Con. Res. 21, these adjustments to the budget allocations and aggregates apply while the conference report accompanying H.R. 2669 is under consideration and will take effect upon enactment of the measure. For purposes of the Congressional Budget Act of 1974, as amended, revised allocations made under section 211 of S. Con. Res. 21 are to be considered as allocations included in the budget resolution.

DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES
(Fiscal years, in millions of dollars)

House Committee	2007		2008		2008–2012 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
Current allocation:						
Education and Labor	13	4	–150	–145	–750	–742
Change in College Cost Reduction and Access Act (H.R. 2669):						
Education and Labor	–4,890	–4,890	–176	–842	5,754	4,888
Revised allocation:						
Education and Labor	–4,877	–4,886	–326	–987	5,004	4,146

BUDGET AGGREGATES
(On-budget amounts, in millions of dollars)

	Fiscal Year 2007	Fiscal Year 2008 ¹	Fiscal Years 2008–2012
Current Aggregates: ²			
Budget Authority	2,255,570	2,350,357	n.a.
Outlays	2,268,649	2,353,992	n.a.
Revenues	1,900,340	2,015,841	11,137,671
Change in College Cost Reduction and Access Act (H.R. 2669):			
Budget Authority	–4,890	–176	n.a.
Outlays	–4,890	–842	n.a.
Revenues	0	0	0
Revised Aggregates:			
Budget Authority	2,250,680	2,350,181	n.a.
Outlays	2,263,759	2,353,150	n.a.
Revenues	1,900,340	2,015,841	11,137,671

n.a. = Not applicable because annual appropriations Acts for fiscal years 2009 through 2012 will not be considered until future sessions of Congress.
¹ Pending action by the House Appropriations Committee on spending covered by section 207(d)(1)(E) (overseas deployments and related activities), resolution assumptions are not included in the current aggregates.
² Excludes emergency amounts exempt from enforcement in the budget resolution.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

□ 1615

THE TEXAS/MEXICO BORDER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Texas (Mr. POE) is recognized for 60 minutes as the designee of the minority leader.

Mr. POE. Mr. Speaker, last week I got to go down to the west Texas town of El Paso, that town that Marty Robbins sang that famous ballad about. It was one of my several trips to the Texas/Mexico border since I've been in Congress, now almost a dozen times down along the Rio Grande River.

The Texas border with Mexico, the river border, is 1,248 miles long. That doesn't mean much, but it's the same

distance from New York City to Kansas City. And I spent last week in two of those counties, the furthest west county, El Paso County, and the second county to the east, Hudspeth County.

I met with the Sheriff's Department in El Paso County, and Sheriff Leo Samaniego and his chief deputy, Jimmy Apodaca and Public Information Officer Rick Clancy, all El Paso natives, took me around the area of El Paso city and the County of El Paso. I'd like to describe the scene that I saw there.

In El Paso, El Paso is a community of about 500,000 people. Across the Rio Grande River is Juarez, Mexico, a community of over 2 million individuals. Juarez, unlike some border towns, is a thriving area. The economy is booming. And across the city of El Paso, on the Rio Grande River, there is an 18-mile fence. And let me describe that fence between Mexico and the United States. The Rio Grande River is to the south. The next thing you see is green

space, it's primarily dirt, for about 200 yards. And then there is a fence, a fence that protects the canal that runs on the northern side of the Rio Grande River. You see, the canal has more water in it sometimes than the Rio Grande River does. And it's a manmade canal. It's full of water most of the time. So there's a fence on each side of the canal.

Then there is a road that the Border Patrol patrols, and then there is yet one more fence before the highway there in the city of El Paso. And this fence has been there for some time. And along that 18-mile stretch in the city of El Paso about every quarter of a mile on the road, the Border Patrol road, there is a Border Patrol vehicle. And we saw numerous of those vehicles while I was there those several days. And it seems to me that area is very well protected, and no one crosses into the United States because of those three fences, the canal, and the presence of the Border Patrol.

Before the fence was there, the border was basically wide open and people came right across into El Paso and dodged traffic there on the main streets. According to the sheriff's department, since the fence has been built in the city of El Paso, crime in El Paso has dropped 60 percent. So the Border Patrol, working with the local law enforcement, seems to do a good job of keeping people, especially criminals who want to come in and commit crime in El Paso city and flee back to Juarez, from coming into the town. The situation is somewhat different as you move on further down the river.

Before I mention that, I would like to mention a couple of things that I did observe. In the mornings we went out to the several crossings into the United States, the legal crossings, and observed people coming in from Mexico to the United States. At about 6:15 in the morning, very early, was when these photographs were taken. Now, these photographs were taken by the Rio Grande River, and turning around, these photographs are taken of students going into El Paso city. And you will notice they have on school uniforms. This individual is even carrying a set of golf clubs that he brought from home, I suspect, to go to school. Here are some kids down here earlier in the morning, and they also have their backpacks, their school uniforms, and they are headed into the United States.

How do we know they were school students? Well, many of them were wearing the T-shirts of the colors of the elementary school, purple and blue and green and red, or gray. And hundreds of these kids cross the border into the United States every day from Mexico to go to school in the United States. At the end of the day, all of these kids, some of them escorted by their parents, cross back over into Juarez, Mexico, to go home. And this is a daily occurrence when school is in session.

It seems to me that the United States is funding the education of for-

eign nationals that not only don't live here; they live somewhere else and come to our schools all at the expense of taxpayers in the United States. People who pay their taxes, live here legally, whether citizens or not, fund the education system for people in some other nation on a daily basis.

I went to some of the local high schools and noticed how some of the students would drive up in their vehicles and they would have Mexican license plates on their vehicles. Two apparently had crossed the border that morning, coming into the United States, going to American high schools, and turning around at the end of the day and going back home. It seems to me that this ought not to be.

The sheriff's department tells me that about 40 percent of the El Paso school system is made up of citizens from Mexico that come across each day into the United States. Statistics are hard to find. The El Paso school district seems to disagree with that.

And you will notice these aren't poor kids coming over. These are kids that are just basically middle-class kids coming to the United States. And we took numerous photographs of those kids. Here are some of those just for your benefit.

But as we moved out of the city of El Paso, which, like I said, seemed to be a secure place for basically illegal traffic coming in except for maybe situations like where the ports of entry are not screened or protected very well by the border protectors, there seems to be no presence of the Border Patrol outside the city of El Paso throughout the rest of the county. Let me try to explain that area.

This is a map of a partial area of the towns and locales that I went to last week as a guest of the sheriff's department. You will notice up here in the far western portion of Texas that borders Mexico is the city of El Paso, this yellow area here. The city of El Paso, like I said, has that 18-mile fence. As soon as you get out of the city of El Paso and go down to the county line of El Paso, things are a lot different and the presence of the Border Patrol was a lot different, in my opinion.

First of all, of course, there is no fence that was built like the one that I just described. As soon as you get out of the city of El Paso, there's no fence of any type.

So I traveled along with the sheriff's department of El Paso County to these different small little towns along the border, border towns. Fabens, Texas, we all heard about Fabens, Texas, where the Border Patrol officers got arrested and convicted for trying to apprehend a drug smuggler. That's a different story for another time. And these other small towns all along the border.

The way the situation is on the border and how I will describe it is to make it clear on how easy it is to cross into the United States. Of course, there's the Rio Grande River. Depend-

ing on where you go, there is sometimes not even water in the Rio Grande River. And as soon as you cross the Rio Grande into the United States, there is a Texas highway, Highway 20, that runs the length of El Paso County and part of the next county, Hudspeth County. That road is about 3 miles from the border. And then you go an additional 2 miles along the border, this entire area here, and there is Interstate 10 that travels all the way from Florida through Texas to California. So it is about 5 miles from the border to Interstate Highway 10.

The area is flat. The area has brush, and it's low brush and it's thick brush, very easy to hide in that area. And at night you can see above that brush for miles. You can see from the Rio Grande River all the way to the interstate where all of the vehicles are traveling up and down the interstate.

So we visited these little small villages in El Paso County and talked to some of the individuals that were there, that lived there, that have lived there, their families, for generations. And this was probably the most, shall I say, expressive bunch of people that I have ever met. These farmers and ranchers that live on the Rio Grande River on the Texas side, the American side, and what they are going through and their property has been tampered with because the Federal Government doesn't secure the border. These ranchers, these villagers, they all live right on the Rio Grande River. They live between the river and Interstate 10. Some of them live south of Highway 20, right on the river. And I met with one of those locals, and he said that he felt like our own government has deserted the ranchers and farmers in the rural areas of our country. He said he waits sometimes a long time for the Border Patrol to show up when they are called.

And here is the reason for that: it would seem to me the Border Patrol ought to patrol the border, which is the Rio Grande River. The Border Patrol, it seems to me, ought to be on the border to protect the border. But most of the time they are not on the border. They are on Interstate 10, which is 5 miles from the border, driving up and down that area. Well, if people get to Interstate 10, they are already in the United States. And if they can cross into the United States, it's very easy to get picked up on Interstate 10 or even Highway 20 here and dispersed into the United States.

So what happens is, because of this policy of keeping the Border Patrol on Interstate 10 for the most part, you leave these ranchers, these farmers, and these people who live in these small villages and towns in no-man's land. And I visited in many of these small villages and these very small homes on the American side, and I was shocked to see the bars on the windows and how the people have tried to protect their property from just the criminal element that crosses into the

United States because they are, in their opinion, without adequate protection.

We need to enforce the border on the border, not have a policy that puts the Border Patrol 5 miles from the border on Interstate 10. And, of course, that is what the farmers and the ranchers said as well.

It was interesting to hear from these farmers and ranchers, and they would talk to me. They all met together in one of their farmhouses and talked for several, several hours on this tremendous issue. And they said that they see everybody coming across, that the days and times have changed. It used to be that this border was basically fairly open. I mean by that there would be crossings on both sides, Americans into Mexico, Mexicans into the United States. There would be landowners on both sides who would do business with each other. But those days are over. The people coming over now, according to these farmers and ranchers, are criminals. Not all of them, but many of them are. And they destroy their property. They destroy the vehicles that they have. They steal their property.

And we have heard much about a virtual fence. A virtual fence. What is a virtual fence? It means there is no fence, but there are cameras that watch the border. And I will give you an example of how the virtual fence works along this area. There are cameras, and some of those are maintained and monitored. And on three different occasions, I saw through a vision in heat sensor cameras illegals coming into the United States across the border. The Border Patrol was notified to come to those areas and pick up these people bringing in whatever, drugs, or just coming into the United States.

In one instance the Border Patrol took 45 minutes to get to the location. They were being directed by the person watching the camera to where the illegals had crossed, and they were within 30 feet of them and still couldn't see them because, you see, that brush is so thick. And they were hiding 30 feet away, and finally the Border Patrol left that area. And those particular three individuals that were hiding in the brush had on baggy clothes, the kind that drug smugglers bring in when they pack their bodies with drugs to smuggle into the United States.

Let me mention this about the Border Patrol. I think the Border Patrol agents that work on our border do as good a job as our government will let them do. They are fine people. But they have to follow the policies of somebody else, I think probably people here in Washington, DC, maybe folks that have never even been to the border. So they do what they are told to do, and they patrol the area they are told to patrol. It would seem to me that we ought to have our Border Patrol working more hand in hand with the locals, the sheriff's department, and patrolling closer to the border.

But the virtual fence, it's virtual all right. People are still able to cross in through that virtual fence.

It is interesting that the sheriffs and the deputy sheriffs that work out there, they are a little different than the Border Patrol. Like I said, nothing against the Border Patrol. We need them. We need more of them. We need more boots on the ground, probably more boots on the ground than we do other things. But the sheriffs' deputies and the sheriffs, they all grew up there. They all are from there. They know the people who ought to be there and the people who are from some other place. So we certainly need to use them as well.

The farmers, what do they grow down there in southwest Texas anyway? They used to grow cotton. They don't do that anymore. But this whole area here has pecan orchards, and you will drive down by the Rio Grande River, once again south of Interstate 10, and you will see pecan orchards. Pecan orchards, that's what they grow. But they are orchards that have to be irrigated. And the problem the farmers have is that so many people are crossing across their orchards that they are tearing up their crops. They say on an average they have, each one of them, four to five groups of anywhere from 30 to 50 people a day crossing their farm orchards, in many cases tearing up the property.

But let me tell you some of the experiences that they have had. One farmer noticed that there were some illegal people coming across his land. He goes out and he apprehends them, holds them for the Border Patrol. It turned out that these two individuals apparently were from Honduras. They are called OTMs in the vernacular, "other than Mexicans," because, you see, everybody is crossing in. We shouldn't just say things about Mexico. It's not just illegals from Mexico; it's from many other countries, including Honduras.

□ 1630

So he holds them for the Border Patrol. The Border Patrol comes and arrests these two individuals, takes them out of his custody, takes them over and turns them into the immigration services. One thing leads to another and they are released on their own recognition to come back for an immigration hearing sometime later. You see, that's what happens to many OTMs. If you are "other than Mexican," you're not held, detained and deported. You're held for a while, and because there are not enough detention facilities, they're released on their word to come back for their immigration hearing, deportation hearing, shall I say. It would not surprise us that most of those people never come back for that hearing.

But anyway, these two individuals are apprehended; they're released from custody. And guess what? Two days later, this farmer had his pecan orchard burned to the ground. I wonder

who did that? You see, it's ironic and silly to arrest these people from other countries, no matter where they are, hold them and release them back into the community, especially when they commit crimes, and most of them never appear back at that court hearing.

There are farmers and ranchers down there that don't want to leave their land. But I will tell you this, they are mad, they are angry, and as many of them said, they are disappointed that, in their opinion, and I will quote one of them, that the American Government has written off the rural farmer along the border. Because of whatever reason, there is no security in their opinion. Rural America has been given away by outlawry by our government, and this ought not to be.

So after we went through with the sheriff's deputies in El Paso County, wonderful people, we went over to Hudspeth County, which is the adjoining county. Most Americans have never heard of Hudspeth County. Let me describe it for you. It's 5,000 square miles. It's the size of Delaware and Rhode Island put together, and it's just one county in Texas. It has 100 miles that borders the Rio Grand River, so it has 100 miles of border.

On patrol in Hudspeth County is Sheriff Arvin West, and what a right-thinking American he is. He has 12 deputies to patrol this whole area. In other words, on any given shift, any time of the day, there are three deputies that patrol the entire county that borders Mexico. Now, you notice, Mr. Speaker, part of Interstate 10 is very close to the border, 5 miles, along with Highway 20, which is 3 miles from the border. And then about halfway down at Sierra Blanca, the road changes and it goes on off through Houston to Florida.

But this area here, of course, is an area that we went through. The sheriff's deputies, Sheriff Arvin West and his individuals that work for him, took me through that area. And we traveled right on the border. There is a dirt road on the American side.

Let me mention this: you see this road over here, Highway 2, Mexican Highway 2. Of course you see it runs along the border as well on the other side. And so there's a dirt road right on the border. And we traveled down this dirt road, sandy road, the river is right next to us. And we traveled for 30 miles on this road, took about 3 hours, before we saw one Border Patrol agent. It surprises me that we weren't that quiet going down that area, and the first time we saw a Border Patrol agent was 30 miles down river where we had been traveling.

But let me tell you about Arvin West. Arvin West, sheriff of this county, makes \$36,000 a year. His 12 deputies, who are all patriots, who most of them are Hispanic, make \$26,000 a year. But to a person, they are determined to secure their border because of the crime problem in the United States for failure to secure the border.

You see, they have to patrol all these little towns here, Fort Hancock and McNary and Sierra Blanca. These are all their little small towns that are in their county. And these towns have crime problems because of that crime coming from Mexico. So they want the border secure.

And let me say this at this point: this is an issue about border security, this is not an issue of immigration. That's a totally different issue. Border security is the issue, and we must, as a Nation, secure our border. And these sheriffs that live along here, the border sheriffs, each one of them believes the border should be secure because of the crime that is being committed.

But we traveled down this area. And I'd like to show you or mention a couple of things that I observed. Going down the river, we stopped. This is at night, in the middle of no place. And we came across a trolley that was built across the river; now that's what I call it. It had a steel cable running from one side of the river to the other with a bucket in it, or a trolley. And apparently people can go back and forth across that trolley into one country or the other. And that disturbed me to some extent. But we then traveled down and saw something else that I think was a little more disturbing.

This photograph here, Mr. Speaker, is a foot bridge taken on the American side, obviously, over into Mexico. You notice it's a steel foot bridge. It has rails on it. It probably would meet OSHA standards. And the only thing that goes across there are people. But you notice, of course, Mr. Speaker, how the land is trampled down on the Mexican side, how there is trash over here, and on this side there is land trampled down as well. There is in Hudspeth County. And there are 10 of these in the area. Who built them? They're still trying to find that out. Is it guarded? It is patrolled? Are people there watching to see if people come into the United States? No. These foot bridges exist for the sole purpose of letting people, apparently, cross into the United States. If they serve some other purpose, I don't know what that is.

But that disturbs me to some extent. Here we have in El Paso basically three fences and a canal trying to protect the United States from people coming in illegally. And we just moved to the county next to it and we see these things that are built to allow foot traffic to come into the United States. This ought not to be.

And of course once they come into the United States, they can see the interstate, which is just 5 miles away, and make their way up to the interstate, get picked up by someone flashing their lights at them, and move on down wherever they wish to go into the far most areas of the United States. This is a bridge that is a convenience for people who wish to cross into the United States illegally.

On down the river and up the river there are many places where the river

is low and there are washouts, where water has come from either Mexico or the United States to go into the Rio Grande River. And these are perfect places that are used by drug smugglers to smuggle drugs into the United States from Mexico. Once again, once they cross into the United States, they make their way, under routes that they have planned, to the interstate and move those drugs east, west and north.

But it was interesting to see that there were places where the roadbed, or shall I say the riverbed looked like it had been filled in, where some vehicle had come in, Caterpillar tractor, and had smoothed down the river so that vehicles crossing into the United States wouldn't get stuck in the mud.

Now, I asked the sheriff's department about that, and they said, well, sure, every once in a while there would be a Caterpillar tractor parked on the Mexican side just sitting there. And they're sitting near these areas where drug smugglers come in, and the next day that Caterpillar bulldozer has come down there to the river bank, made a road for drug smugglers to bring drugs into the United States. And I asked Sheriff West, well, what do you do about that? He said, as soon as we see those, of course we're not down there 24 hours a day, neither is the Border Patrol, we tear up the river way so that those vehicles can't come into the United States. But a few days later, once again some bulldozer has come in and laid the river smoother and drier so that vehicles can come into the United States, sitting there waiting to move the illegal narcotics into our country.

You know, drug trafficking is a major reason we ought to secure the border. Those people who come here to do us harm is another reason to secure the border, whether those are just basic outlaws or whether those are people who wish to set up cells at the right time to do this nation damage. And in little area here that I'm talking about, well, it's a big area that I'm talking about, makes it easy for them to come into the United States.

Now, Sheriff West doesn't have much of a budget. In fact, he has such a small budget that he really doesn't have any vehicles. It's hard for me to understand how a sheriff's department can operate without vehicles, but here's what he does and many of the other sheriffs along the Texas-Mexico border. When they capture a drug dealer, they confiscate his vehicle, and by law they're allowed to keep that vehicle after they go through the proper channels to seize it. So most of his vehicles have come to the sheriff's department with the best of the drug dealers. And so they're driving drug dealer vehicles, SUVs, very nice vehicles that they have confiscated from drug dealers. And those are the vehicles, the patrol vehicles, most of them trucks, pick-up trucks or SUVs so they can patrol up and down this entire county. They've even seized an 18-wheeler and put the sheriff's logo on it.

You know, I admire people like Sheriff West, the sheriffs along the border who will do what they need to do to secure the dignity of the United States.

The sheriff's department also mentioned to me about something we've heard about here in Congress, I've never seen it myself, but we hear reports about the Mexican military coming into the United States for different reasons, all those reasons are probably no good, and whether that's true or not.

On this road, on Interstate 10, there is basically nothing on Interstate 10 except vehicles, mostly trucks, but there is a massive truck stop on Interstate 10. And it is not uncommon, according to the sheriff's department here in Hudspeth County, to see the Mexican military wearing their uniforms going into this truck stop for whatever purpose they have. It's interesting that they say, of course, that it's not unusual for drugs to be accompanied by the Mexican military into portions of the United States.

So if we have the military from another country coming across our borders without our permission, I would hope that that would disturb Homeland Security to some extent, that they would prevent that from happening, or at least quit denying that it occurs.

So apparently to me it seems we have moved the U.S. border from the Rio Grande River to Interstate 10, 5 miles inward. We have left all this area as no-man's land. You live there at your own risk of drug dealers and criminals coming across, and this ought not to be.

It's unfortunate that this situation occurs, but it is the duty of our country, of course, to make sure it doesn't occur any longer. The failure of the Federal Government to secure the border allows everybody to come in here. We get the good, we get the bad, and we get the ugly, and we're getting a lot of bad and ugly because this border is not secure. So we secure our border. We do what we need to do. We have to have the moral will to secure the border. If we did, the border would be secure. We secure the borders of other nations. We secure the Korean border. Why don't we secure the American border? We secure the borders of other nations throughout the world. Why don't we secure the American border?

Third World countries protect their borders better than we do. Why? Because of all of those political reasons and all of those people that have political agendas keep our government from doing what it ought to do, and the first duty of government is to secure the nation. And I would hope Homeland Security would go down to the border and see it the way it really is.

Mr. Speaker, we hear about violence on the border. I heard a lot about it down there. We don't get too many news reports about the violence on the Texas-Mexico border or anywhere else along the southern border with Mexico, but I would like to read a dispatch

from the Hudspeth County Sheriff's Office on September 5, which was 2 days ago. This dispatch reads: At approximately 9:56 a.m., the U.S. Border Patrol at Fort Hancock Station, there's Fort Hancock, that's a little bitty place with just a handful of people living there, the U.S. Border Patrol at Fort Hancock Station called the Hudspeth County Sheriff's Office requesting assistance from the sheriff's office and highway patrol with a vehicle that was being pursued on Interstate 10. It was westbound at the 68 mile marker. So the vehicle was going this direction, headed west. The vehicle had crossed into the United States from Mexico and was loaded with approximately 800 pounds of marijuana. The vehicle was a 2005 GMC Yukon, light gold in color. The pursuit went into El Paso County, the next county over, and then turned back eastbound toward Tornillo, Texas. Hudspeth County Deputy Keith Hughes, stationed in Fort Hancock, Texas, joined in the pursuit. Deputy Hughes was able to negotiate his way to the front of the pursuing law enforcement vehicles.

The driver of the Yukon exited Interstate 10 and drove south on Acala Road toward the United States and Mexican border. Right in here, this little road. The United States Border Patrol set up road spikes on Acala Road. The driver of the Yukon hit the spikes, but continued traveling through Acala Road and Texas 20 in Hudspeth County.

Upon crossing Texas 20, the driver of the Yukon exited the vehicle and ran south to the United States and Mexican border. Deputy Hughes and the U.S. Border Patrol began a foot pursuit. The driver was captured by pursuing officers. During the foot pursuit, automatic gunfire was heard from the direction of the United States and Mexican border. Sheriff Arvin West ordered the area south of the capture site to be cleared of any persons in danger, and to seek out and find the person or persons responsible for the gunfire.

Once there were sufficient sheriff deputies on the scene, Chief Deputy Mike Doyle organized and led the deputies to the border area for the search.

□ 1645

After a thorough search of the border area south of the capture site, it was determined that the automatic gunfire came from the Mexican side of the United States-Mexico border. The Hudspeth County Sheriff's Office conducted a search of the border area alone because the agents of the United States Border Patrol were ordered not to engage at the border. And that is a dispatch that I didn't see printed in any newspaper in the United States about the violence, the drug dealers and the drug cartels along our southern border.

Mr. Speaker, it is a serious situation on the Rio Grande River. Like I said earlier, this is not an immigration issue at all. This is an issue about whether this country will secure its

borders. I wonder whether a Nation that won't secure its borders deserves to exist as a Nation. It is the duty of our government to enforce the existing law. We have pontificated in this House ever since I have been in Congress about more laws on immigration, border security, comprehensive immigration reform. Why don't we just enforce the laws we already have? It is still against the law to come into the United States without permission, regardless of the reason. People from other countries don't believe we will enforce the rule of law in this country.

Otherwise, they wouldn't keep coming in the United States. And many times when they are captured, nothing happens. Our government has the duty to protect the people in this country from violence of criminals coming from other nations. Our country has the duty to protect citizens throughout the country from criminals coming from other places who we call terrorists. The next terrorist who is going to come to the United States probably is not going to fly over here and get off the airplane here at Reagan, and look around and see what damage they are going to do. They don't have to do that. They don't have to go through TSA screening. All they have to do is come across either our northern or southern border.

Mr. Speaker, our Federal Government has the duty to keep the Mexican military out of our Nation. It has no business being here for any purpose.

Mr. Speaker, many years ago, Marty Robbins wrote a song, a ballad about the west Texas town of El Paso and about how a cowboy lost his life because he was seeking the love of a Mexican lady by the name of Feleena. That ballad basically talks about the Wild West along the border and how it was violent at a time. Some things have changed along the Texas-Mexico border. There is some security. There are prosperous cities on both sides of the border. But there are other communities. These are small communities. These are small villages where real people live, too. Many live in fear of their life because our border is open. Times have changed because the type of people coming into the United States have changed. They are not all coming over here looking for work. Some of them are coming over here looking for mischief. They find that mischief. Much of that mischief is down there on the border where Americans live and legal immigrants live that are persecuted by criminals who come in to the United States.

So violence does continue on our border. It is imperative that we understand that and admit it so we can do something about it. Denying the truth is not a solution, but being openminded and realizing that, Mr. Speaker, I have only talked about two counties along the Texas-Mexico border, El Paso County and Hudspeth County. This border, like I said, is 1,250 miles long from El Paso all the way down to Brownsville. I have traveled almost the entire

length of it as a guest of the sheriffs along the border. The situation is bad along that entire area. As you travel west through Arizona and through California, you find the same problems along the border, according to those sheriffs who live there and who grew up there.

So the obligation of our government is to do something to protect the dignity and the sovereignty of the United States and make folks understand that our government will protect them, their families and their property and keep them safe from intruders who come into the United States no matter what the reason, because, you see, it is still against the law to enter the United States without the permission of the United States.

We need to mean it. We need to do something about it. We need to put more Border Patrol agents on the border. We need to use the National Guard, and if necessary, a fence in appropriate areas. It won't work everywhere. But it will work in some places. Where it is erected, it has worked.

We need to do whatever it takes to make sure that the United States is a sovereign Nation and we do not lose this country to other folks who come over here and are trying to take it away from Americans and legal immigrants.

With that, Mr. Speaker, that is just the way it is.

VACATING 5-MINUTE SPECIAL ORDER

The SPEAKER pro tempore. Without objection, the 5-minute Special Order speech of the gentleman from Texas (Mr. POE) is vacated for today.

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOYD (at the request of Mr. HOYER) for today on account of a family emergency.

Mr. ELLSWORTH (at the request of Mr. HOYER) for today on account of official travel.

Mrs. JONES of Ohio (at the request of Mr. HOYER) for today on account of a death in the family.

Mr. PEARCE (at the request of Mr. BOEHNER) for today on account of official business.

Mr. REICHERT (at the request of Mr. BOEHNER) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. CUMMINGS, for 5 minutes, today.
 Ms. WOOLSEY, for 5 minutes, today.
 Mr. ENGEL, for 5 minutes, today.
 Mr. SPRATT, for 5 minutes, today.

(The following Members (at the request of Mr. POE) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Kentucky, for 5 minutes, September 10.

Mr. JONES of North Carolina, for 5 minutes, September 10.

Mr. POE, for 5 minutes, September 10.

ENROLLED BILL SIGNED

Mr. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2358. An act to require the Secretary of the Treasury to mint and issue coins in commemoration of Native Americans and the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced her signature to an enrolled bill of the Senate of the following title:

S. 377. An act to establish a United States-Poland parliamentary youth exchange program, and for other purposes.

ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 52 minutes p.m.), under its previous order, the House adjourned until Monday, September 10, 2007, at 10:30 a.m., for morning-hour debate.

OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Rodney Alexander, Thomas H. Allen, Jason Altmire, Robert E. Andrews, Michael A. Arcuri, Joe Baca, Michele Bachmann, Spencer Bachus, Brian Baird, Richard H. Baker, Tammy Baldwin, J. Gresham Barrett, John Barrow, Roscoe G. Bartlett, Joe Barton, Melissa L. Bean, Xavier Becerra, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Brian P. Bilbray, Gus M. Bilirakis, Rob Bishop, Sanford D. Bishop, Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, John A. Boehner, Jo Bonner, Mary Bono, John Boozman, Madeleine Z. Bordallo, Dan Boren, Leonard L. Boswell, Rick Boucher, Charles W. Boustany, Jr., Allen Boyd, Nancy E. Boyda, Kevin Brady, Robert A. Brady, Bruce L. Braley, Paul C. Broun, Corrine Brown, Henry E. Brown, Jr., Ginny Brown-Waite, Vern Buchanan, Michael C. Burgess, Dan Burton, G. K. Butterfield, Steve Buyer, Ken Calvert, Dave Camp, John Campbell, Chris Cannon, Eric Cantor, Shel-

ley Moore Capito, Lois Capps, Michael E. Capuano, Dennis A. Cardoza, Russ Carnahan, Christopher P. Carney, Julia Carson, John R. Carter, Michael N. Castle, Kathy Castor, Steve Chabot, Ben Chandler, Donna M. Christensen, Yvette D. Clarke, Wm. Lacy Clay, Emanuel Cleaver, James E. Clyburn, Howard Coble, Steve Cohen, Tom Cole, K. Michael Conaway, John Conyers, Jr., Jim Cooper, Jim Costa, Jerry F. Costello, Joe Courtney, Robert E. (Bud) Cramer, Jr., Ander Crenshaw, Joseph Crowley, Barbara Cubin, Henry Cuellar, John Abney Culberson, Elijah E. Cummings, Artur Davis, Danny K. Davis, David Davis, Geoff Davis, Jo Ann Davis, Lincoln Davis, Susan A. Davis, Tom Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Charles W. Dent, Lincoln Diaz-Balart, Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Joe Donnelly, John T. Doolittle, Michael F. Doyle, Thelma D. Drake, David Dreier, John J. Duncan, Jr., Chet Edwards, Vernon J. Ehlers, Keith Ellison, Brad Ellsworth, Rahm Emanuel, Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Terry Everett, Eni F. H. Faleomavaega, Mary Fallin, Sam Farr, Chaka Fattah, Tom Feeney, Mike Ferguson, Bob Filner, Jeff Flake, J. Randy Forbes, Jeff Fortenberry, Luis G. Fortuño, Vito Fossella, Virginia Foxx, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Elton Gallegly, Scott Garrett, Jim Gerlach, Gabrielle Giffords, Wayne T. Gilchrest, Kirsten E. Gillibrand, Paul E. Gillmor, Phil Gingrey, Louie Gohmert, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Kay Granger, Sam Graves, Al Green, Gene Green, Raul M. Grijalva, Luis V. Guterrez, John J. Hall, Ralph M. Hall, Phil Hare, Jane Harman, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robin Hayes, Dean Heller, Jeb Hensarling, Wally Herger, Stephanie Herseth, Brian Higgins, Baron P. Hill, Maurice D. Hinchey, Ruben Hinojosa, Mazie Hirono, David L. Hobson, Paul W. Hodes, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Bob Inglis, Jay Inslee, Steve Israel, Darrell E. Issa, Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Jefferson, Bobby Jindal, Eddie Bernice Johnson, Henry C. "Hank" Johnson, Jr., Sam Johnson, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Jim Jordan, Steve Kagen, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Patrick J. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Peter T. King, Steve King, Jack Kingston, Mark Steven Kirk, Ron Klein, John Kline, Joe Knollenberg, John R. "Randy" Kuhl, Jr., Ray LaHood, Doug Lamborn, Nick Lampson, James R. Langevin, Tom Lantos, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, Daniel Lipinski, Frank A. LoBiondo, David Loebsack, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Daniel E. Lungren, Stephen F. Lynch, Carolyn McCarthy, Kevin McCarthy, Michael T. McCaul, Betty McCollum, Thaddeus G. McCotter, Jim McCrery, James P. McGovern, Patrick T. McHenry, John M. McHugh, Mike McIntyre, Howard P. "Buck" McKeon, Cathy McMorris Rodgers, Jerry McNerney, Michael R. McNulty, Connie Mack, Tim Mahoney, Carolyn B. Maloney, Donald A. Manzullo, Kenny Marchant, Edward J. Markey, Jim Marshall, Jim Matheson, Doris O. Matsui, Martin T. Meehan, Kendrick B. Meek, Gregory W. Meeks, Charlie Melancon, John L. Mica, Michael H. Michaud, Juanita Millender-McDonald, Brad Miller, Candice S. Miller, Gary G. Miller, Jeff Miller, Harry E. Mitchell, Alan B. Mol-

lohan, Dennis Moore, Gwen Moore, James P. Moran, Jerry Moran, Christopher S. Murphy, Patrick J. Murphy, Tim Murphy, John P. Murtha, Marilyn N. Musgrave, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, Randy Neugebauer, Eleanor Holmes Norton, Charlie Norwood, Devin Nunes, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Stevan Pearce, Nancy Pelosi, Mike Pence, Ed Perlmutter, Collin C. Peterson, John E. Peterson, Thomas E. Petri, Charles W. "Chip" Pickering, Joseph R. Pitts, Todd Russell Platts, Ted Poe, Earl Pomeroy, Jon C. Porter, David E. Price, Tom Price, Deborah Pryce, Adam H. Putnam, George Radanovich, Nick J. Rahall II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, David G. Reichert, Rick Renzi, Silvestre Reyes, Thomas M. Reynolds, Laura Richardson, Ciro D. Rodriguez, Harold Rogers, Mike Rogers of Alabama, Mike Rogers of Michigan, Dana Rohrabacher, Peter J. Roskam, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C. A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Tim Ryan, John T. Salazar, Bill Sali, Linda T. Sanchez, Loretta Sanchez, John P. Sarbanes, Jim Saxton, Janice D. Schakowsky, Adam B. Schiff, Jean Schmidt, Allyson Y. Schwartz, David Scott, Robert C. "Bobby" Scott, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, Joe Sestak, John B. Shadegg, Christopher Shays, Carol Shea-Porter, Brad Sherman, John Shimkus, Heath Shuler, Bill Shuster, Michael K. Simpson, Albio Sires, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Adrian Smith, Christopher H. Smith, Lamar Smith, Vic Snyder, Hilda L. Solis, Mark E. Souder, Zachary T. Space, John M. Spratt, Jr., Cliff Stearns, Bart Stupak, John Sullivan, Betty Sutton, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, Gene Taylor, Lee Terry, Bennie G. Thompson, Mike Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Edolphus Towns, Michael R. Turner, Mark Udall, Tom Udall, Fred Upton, Chris Van Hollen, Nydia M. Velázquez, Peter J. Visclosky, Tim Walberg, Greg Walden, James T. Walsh, Timothy J. Walz, Zach Wamp, Debbie Wasserman Schultz, Maxine Waters, Diane E. Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Peter Welch, Dave Weldon, Jerry Weller, Lynn A. Westmoreland, Robert Wexler, Ed Whitfield, Roger F. Wicker, Charles A. Wilson, Heather Wilson, Joe Wilson, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, John A. Yarmuth, C. W. Bill Young, Don Young.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3206. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pyriproxyfen; Pesticide Tolerance [EPA-HQ-OPP-2006-0889; FRL-8142-4] received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3207. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Flusilazole; Pesticide Tolerances for Emergency Exemptions [EPA-HQ-OPP-2007-0428; FRL-8138-6] received August 24, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3208. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Flutriafol; Time-Limited Pesticide Tolerance [EPA-HQ-OPP-2007-0327; FRL-8135-6] received August 24, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3209. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Propylene Oxide; Pesticide Tolerance [EPA-HQ-OPP-2005-0157; FRL-8143-9] received August 24, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3210. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Spinosaad; Pesticide Tolerance [EPA-HQ-OPP-2007-0349; FRL-8142-1] received August 24, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3211. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2006 annual financial report to Congress required by the Prescription Drug User Fee Act of 1992 (PDUFA), pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

3212. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Texas; Shipyard Facilities and Provisions for Distance Limitations, Setbacks, and Buffers in Standard Permits [EPA-R06-OAR-2007-0285; FRL-8460-2] received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3213. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans South Carolina: Revisions to Ambient Air Quality Standards [EPA-R04-OAR-2004-SC-0004-200706 (a); FRL-8457-2] received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3214. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to Consolidated Federal Air Rule [EPA-HQ-OAR-2007-0429; FRL-8459-5] (RIN: 2060-A045) received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3215. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, South Coast Air Quality Management District [EPA-R09-OAR-2007-0421a; FRL-8452-1] received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3216. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District and San Joaquin Valley Air Pollution Control District Technical Amendment [EPA-R09-OAR-2007-0462 FRL-8458-9] received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3217. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amend-

ments to Related Mercury Monitoring Provisions [EPA-HQ-OAR-2007-0164, FRL-8459-8] (RIN: 2060-A001) received August 21, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3218. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Establishment of Interim Progress for the Annual Fine Particle National Ambient Air Quality Standard. [EPA-R01-OAR-2007-0373; A-1-FRL-8461-5] received August 24, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3219. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Minnesota [EPA-R05-OAR-2006-1023; FRL-8464-8] received September 5, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3220. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Prevention of Significant Deterioration and New Source Review [EPA-R06-OAR-2005-NM-0006; FRL-8463-3] received September 5, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3221. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report on server and data center energy efficiency, pursuant to Public Law 109-341; to the Committee on Energy and Commerce.

3222. A letter from the Associate Deputy Secretary, Department of the Interior, transmitting the Department's annual report for Fiscal Years 2004, 2005, and 2006 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

3223. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting the audited Sixty-Sixth Financial Statement for the period October 1, 2005 to September 30, 2006, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Oversight and Government Reform.

3224. A letter from the Director, EEO and Diversity Programs, National Archives and Records Administration, transmitting a copy of the Administration's Fiscal Year 2006 Notification and Federal Employee Anti-Discrimination and Retaliation (No FEAR) Act Annual Report; to the Committee on Oversight and Government Reform.

3225. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's inventory of commercial and inherently governmental activities, pursuant to Pub. L. 105-270; to the Committee on Oversight and Government Reform.

3226. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's FY 2006 Annual Report required by Section 203 of the Notification and Federal Antidiscrimination and Retaliation Act of 2002, Pub. L. 107-174; to the Committee on Oversight and Government Reform.

3227. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting the Department's report entitled, "Estimates of Natural Gas and Oil Reserves, Reserves Growth, and Undiscovered Resources in Federal and State Water off the coasts of Louisiana, Texas, Alabama, and Mississippi," pursuant to Public Law 109-58, section 965(c); to the Committee on Natural Resources.

3228. A letter from the Deputy Assistant Administrator, Office of Diversion Control, DEA, Department of Justice, transmitting the Department's final rule—Elimination of Exemptions for Chemical Mixtures Containing the List I Chemicals Ephedrine and/or Pseudoephedrine [Docket No. DEA-2841] (RIN: 1117-AB11) received August 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3229. A letter from the Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule—Management of Federal Agency Disbursements (RIN: 1510-AB07) received August 28, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3230. A letter from the Deputy Executive Director, Reserve Officers Association of the United States, transmitting a copy of the Report of Audit for the year ending 31 March 2007 of the Association's accounts, pursuant to 36 U.S.C. 1101(41) and 1103; to the Committee on the Judiciary.

3231. A letter from the Secretary, Department of Transportation, transmitting a copy of a draft bill entitled, "Railroad Rehabilitation and Improvement Financing Reform Act"; to the Committee on Transportation and Infrastructure.

3232. A letter from the Director, Office of Management and Budget, transmitting the FY 2006 annual report on the Federal participation in the development and use of voluntary consensus standards, pursuant to Public Law 104-113, section 12(d)(3) (110 Stat. 783); to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 3246. A bill to amend title 40, United States Code, to provide a comprehensive regional approach to economic and infrastructure development in the most severely economically distressed regions in the Nation; with an amendment (Rept. 110-321, Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Financial Services discharged from further consideration. H.R. 3246 referred to the Committee of the Whole on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 948. Referral to the Committee on Ways and Means extended for a period ending not later than October 5, 2007.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. BLACKBURN (for herself, Mr. BROWN of Georgia, Mr. BLUNT, Mr. PUTNAM, Mr. ALEXANDER, Mr. BACHUS, Mr. BAKER, Mr. BARTLETT of Maryland, Mr. BILBRAY, Mrs. BIGGERT, Mr. BOUSTANY, Mr. BRADY of Texas, Mr. BURGESS, Mr. BURTON

of Indiana, Mr. CAMPBELL of California, Mr. COBLE, Mrs. CUBIN, Mr. CULBERSON, Mr. DAVID DAVIS of Tennessee, Mrs. JO ANN DAVIS of Virginia, Mrs. DRAKE, Mr. DUNCAN, Mrs. EMERSON, Mr. EVERETT, Mr. FEENEY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY, Mr. GOODE, Mr. HAYES, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. ISSA, Mr. JONES of North Carolina, Mr. KELLER, Mr. KING of Iowa, Mr. KINGSTON, Mr. MARCHANT, Mr. MCCAUL of Texas, Mr. MCHENRY, Mr. MCKEON, Mr. MILLER of Florida, Mr. NEUGEBAUER, Mr. PETERSON of Pennsylvania, Mr. POE, Mr. PRICE of Georgia, Mr. REHBERG, Mr. ROYCE, Mrs. SCHMIDT, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SIMPSON, Mr. SULLIVAN, Mr. TANCREDO, Mr. WAMP, Mr. WESTMORELAND, Mr. WICKER, Mr. WALBERG, Mr. WILSON of South Carolina, Mr. BARTON of Texas, Mr. GOODLATTE, Mr. CANTOR, Mr. BARRETT of South Carolina, Mr. CRENSHAW, Mr. DOOLITTLE, Mr. FORBES, Mr. GALLEGLY, Mr. HALL of Texas, Mr. ROHRBACHER, Mr. LUCAS, Ms. GRANGER, Mr. LINDER, Mr. MCCRERY, Mr. MCCOTTER, Mr. BOEHNER, Mr. BONNER, Mr. MCHUGH, Mr. KLINE of Minnesota, Mr. SOUDER, Mr. THORNBERRY, Mr. HUNTER, Mr. MANZULLO, Mr. CAMP of Michigan, Mr. BOOZMAN, Mr. LAMBORN, Mr. LAHOOD, Mr. TURNER, Mr. PLATTS, Mr. CALVERT, Mr. GARY G. MILLER of California, Mr. SMITH of Texas, and Mr. WELDON of Florida):

H.R. 3494. A bill to provide for enhanced Federal, State, and local assistance in the enforcement of the immigration laws, to amend the Immigration and Nationality Act, to authorize appropriations to carry out the State Criminal Alien Assistance Program, and for other purposes; to the Committee on the Judiciary.

By Ms. CORRINE BROWN of Florida:

H.R. 3495. A bill to establish a National Commission on Children and Disasters, a National Resource Center on Children and Disasters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 3496. A bill to debar or suspend contractors from Federal contracting for unlawful employment of aliens, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARRETT of New Jersey (for himself, Mr. BARRETT of South Carolina, Mr. MARCHANT, Mr. CARTER, Mr. HENSARLING, Ms. FALLIN, Mr. ISSA, Mr. SHADEGG, Mr. BARTLETT of Maryland, Mrs. MYRICK, Mr. FRANKS of Arizona, Mr. DANIEL E. LUNGREN of California, Mr. PRICE of Georgia, Mr. FEENEY, Mr. HOEKSTRA, Mrs. MUSGRAVE, Mr. PITTS, Mr. LAMBORN, Mr. WALBERG, Mr. GINGREY, Mr. FLAKE, and Mr. CHABOT):

H.R. 3497. A bill to amend the Internal Revenue Code of 1986 to reduce the Federal tax on fuels by the amount of any increase in the rate of tax on such fuel by the States; to the Committee on Ways and Means.

By Mr. HIGGINS:

H.R. 3498. A bill to authorize the Secretary of Housing and Urban Development to make

grants to assist cities with a vacant housing problem, and for other purposes; to the Committee on Financial Services.

By Ms. HOOLEY (for herself and Ms. WASSERMAN SCHULTZ):

H.R. 3499. A bill to amend the Consumer Product Safety Act to require third-party verification of compliance of children's products with consumer product safety standards promulgated by the Consumer Product Safety Commission, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KING of Iowa:

H.R. 3500. A bill to amend the Help America Vote Act of 2002 to require voting systems to produce a verifiable paper record of each vote cast and to ensure the security of electronic data, and for other purposes; to the Committee on House Administration.

By Mr. LEVIN (for himself, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. POMEROY, Mr. BLUMENAUER, Mr. PASCRELL, Ms. BERKLEY, and Mr. VAN HOLLEN):

H.R. 3501. A bill to amend the Internal Revenue Code of 1986 to provide that indebtedness incurred by a partnership in acquiring securities and commodities is not treated as acquisition indebtedness by organizations which are limited partners for purposes of the unrelated business income tax; to the Committee on Ways and Means.

By Mr. MORAN of Kansas (for himself, Mr. SALAZAR, Mrs. EMERSON, Mr. YOUNG of Alaska, and Mrs. MYRICK):

H.R. 3502. A bill to provide for the prompt implementation of those recommendations of the President's Commission on Care for America's Returning Wounded Warriors that require congressional action; to the Committee on Armed Services, and in addition to the Committees on Veterans' Affairs, Education and Labor, Oversight and Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON:

H.R. 3503. A bill to amend the Public Health Service Act to provide for a national program to conduct and support activities toward the goal of significantly reducing the number of cases of overweight and obesity among individuals in the United States; to the Committee on Energy and Commerce.

By Mr. ROSKAM:

H.R. 3504. A bill to authorize the Securities and Exchange Commission to permit or require persons filing or furnishing information under the securities laws to make such information available on internet websites, in addition to or instead of including such information in filings with or submissions to the Commission, under such conditions as the Commission may specify by rule; to the Committee on Financial Services.

By Mr. ROSKAM:

H.R. 3505. A bill to make various technical and clerical amendments to the Federal securities laws; to the Committee on Financial Services.

By Mr. SPACE:

H.R. 3506. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts of cancellation of indebtedness income on account of a foreclosure on the mortgage secured by the principal residence of the taxpayer; to the Committee on Ways and Means.

By Mr. TIERNEY (for himself, Ms. KILPATRICK, Mr. HASTINGS of Florida, Mr. KENNEDY, Mr. UDALL of New Mexico, Mr. GEORGE MILLER of California, Mr. LEWIS of Georgia, Ms. BALDWIN, Mr. McDERMOTT, Mr. NADLER, and Mr. HINCHHEY):

H.R. 3507. A bill to amend the Social Security Act to provide grants and flexibility

through demonstration projects for States to provide universal, comprehensive, cost-effective systems of health care coverage, with simplified administration; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and Labor, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DANIEL E. LUNGREN of California (for himself and Mr. RYAN of Wisconsin):

H. Con. Res. 206. Concurrent resolution honoring Kikkoman Foods, Inc. and its 50 years of commitment to providing quality products to the United States; to the Committee on Energy and Commerce.

By Mr. SPRATT (for himself, Mrs. WILSON of New Mexico, Mrs. JO ANN DAVIS of Virginia, Mr. STEARNS, Mr. OBERSTAR, Mr. CONAWAY, Mr. HAYES, Mrs. BOYDA of Kansas, Mr. SMITH of Washington, Mr. FRANKS of Arizona, Mr. MCCRERY, Mr. NEUGEBAUER, Mr. GINGREY, Mr. YOUNG of Alaska, Mr. LAMBORN, Mr. SAXTON, Mr. GONZALEZ, Ms. BERKLEY, Mr. BOYD of Florida, Mr. MARSHALL, Mrs. MYRICK, Mr. KINGSTON, Mr. BISHOP of Utah, Mr. SAM JOHNSON of Texas, Mr. BRADY of Pennsylvania, Mr. TURNER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ABERCROMBIE, Mr. WILSON of South Carolina, Mrs. GILLIBRAND, Mrs. TAUSCHER, Mr. LOEBACK, Mr. COURTNEY, Mr. PATRICK MURPHY of Pennsylvania, Mr. MCINTYRE, Ms. SHEA-PORTER, Mrs. DAVIS of California, Mr. SNYDER, Ms. GIFFORDS, Mr. COOPER, Mr. BOREN, Mr. UDALL of Colorado, Mr. ANDREWS, Mr. BUYER, Ms. CASTOR, Mr. ELLSWORTH, Mr. SKELTON, Mr. ORTIZ, and Mr. MCKEON):

H. Con. Res. 207. Concurrent resolution recognizing the 60th anniversary of the United States Air Force as an independent military service; to the Committee on Armed Services.

By Mr. COSTELLO (for himself, Mr. SHIMKUS, Mr. ORTIZ, and Mr. SKELTON):

H. Res. 640. A resolution honoring the sacrifices and commitments of the men, women, and families of the United States Transportation Command, and for other purposes; to the Committee on Armed Services.

By Mr. MCHENRY:

H. Res. 641. A resolution acknowledging the importance of understanding the history of the United States of America and recognizing the need to foster civic responsibility in all citizens; to the Committee on Oversight and Government Reform.

By Ms. SOLIS (for herself, Mr. ENGEL, Mr. LANTOS, Mr. BURTON of Indiana, Mr. GRIJALVA, Mr. HONDA, Mr. MCGOVERN, Mr. MARIO DIAZ-BALART of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HARE, and Mr. HASTINGS of Florida):

H. Res. 642. A resolution expressing sympathy to and support for the people and governments of the countries of Central America, the Caribbean, and Mexico which have suffered from Hurricanes Felix, Dean, and Henriette and whose complete economic and fatality toll are still unknown; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mr. GINGREY.
H.R. 39: Ms. CARSON.
H.R. 69: Mr. GORDON.
H.R. 87: Mr. ROSKAM.
H.R. 111: Ms. SHEA-PORTER.
H.R. 158: Mr. HINCHEY.
H.R. 219: Mr. GOODE.
H.R. 281: Mr. RUSH.
H.R. 346: Mr. RUSH.
H.R. 371: Mr. HIGGINS, Mr. ARCURI, and Mrs. CAPPS.
H.R. 383: Mr. PAUL.
H.R. 418: Mrs. CHRISTENSEN and Mr. LAMBORN.
H.R. 428: Ms. SCHAKOWSKY.
H.R. 549: Mr. CALVERT.
H.R. 552: Ms. SLAUGHTER.
H.R. 601: Mr. ENGLISH of Pennsylvania.
H.R. 657: Ms. BORDALLO.
H.R. 661: Mr. HASTINGS of Florida.
H.R. 688: Mr. STUPAK.
H.R. 695: Mr. MICHAUD.
H.R. 741: Mr. FARR.
H.R. 743: Mr. SALLI.
H.R. 867: Mr. ROSKAM.
H.R. 879: Mr. CHABOT and Mr. BARTLETT of Maryland.
H.R. 880: Mr. HELLER.
H.R. 891: Mr. BOUCHER and Mr. McDERMOTT.
H.R. 900: Ms. WATSON and Mr. PERLMUTTER.
H.R. 989: Mrs. CUBIN and Mr. GOODLATTE.
H.R. 1032: Mr. SMITH of New Jersey.
H.R. 1035: Mr. KUHLMANN of New York.
H.R. 1064: Mr. WELDON of Florida, Mr. ISSA, and Mr. STEARNS.
H.R. 1091: Mr. FARR, and Mr. SCOTT of Virginia.
H.R. 1125: Mr. RYAN of Wisconsin, Mr. MITCHELL, Mr. BILIRAKIS, and Mr. SHULER.
H.R. 1154: Mr. TAYLOR, Mr. CAPUANO, Ms. SCHAKOWSKY, Mr. SKELTON, Ms. BORDALLO, Mr. DUNCAN, Mr. LATHAM, Mr. BROWN of South Carolina, Mr. SCHIFF, Mrs. DAVIS of California, Ms. HERSETH SANDLIN, Mr. SHAD-EGG, Mr. ADERHOLT, Mrs. JO ANN DAVIS of Virginia, Mr. BUYER, Mrs. MYRICK, Mrs. DRAKE, Mr. CALVERT, Mr. KENNEDY, Mrs. TAUSCHER, Mr. FOSSELLA, Ms. CASTOR, Mr. MILLER of North Carolina, Mr. ANDREWS, Mr. ARCURI, Mr. BRALEY of Iowa, Mr. GUTIERREZ, Mr. HODES, Mr. LOEBSACK, Mr. MCNERNEY, Mr. SMITH of Washington, Mr. STARK, Mr. WELCH of Vermont, Mr. ENGEL, Mr. TANNER, Mr. UDALL of Colorado, Mr. WALBERG, Mr. JONES of North Carolina, Ms. HOOLEY, Mr. DOYLE, Mr. BAIRD, and Mr. THOMPSON of California.
H.R. 1193: Mr. FORBES, Mr. ROSKAM, Mr. ANDREWS, and Mr. ACKERMAN.
H.R. 1194: Mr. FOSSELLA.
H.R. 1200: Ms. BALDWIN.
H.R. 1201: Mr. SALLI.
H.R. 1216: Mr. SIREN.
H.R. 1228: Mr. CAMP of Michigan.
H.R. 1233: Ms. GINNY BROWN-WAITE of Florida.
H.R. 1275: Mr. ACKERMAN.
H.R. 1283: Mr. CANTOR, Mr. HINCHEY, Mr. NADLER, and Mr. OBERSTAR.
H.R. 1303: Mr. McNULTY.
H.R. 1304: Mr. FORBES and Mr. MORAN of Kansas.
H.R. 1359: Mr. GOODLATTE.
H.R. 1363: Mr. SESTAK, Mr. WAXMAN, and Mrs. DAVIS of California.
H.R. 1386: Mr. RYAN of Ohio, Mr. DAVIS of Illinois, and Mr. SCHIFF.
H.R. 1414: Mr. PASCRELL.
H.R. 1440: Mr. GILCHREST.
H.R. 1475: Ms. SOLIS.
H.R. 1497: Mr. PAYNE and Mrs. CAPPS.
H.R. 1507: Mr. VAN HOLLEN.
H.R. 1518: Mr. SPRATT.
H.R. 1524: Mr. GORDON.
H.R. 1540: Mr. EHLERS.
H.R. 1570: Ms. BERKLEY and Mr. HONDA.
H.R. 1576: Mr. LoBIONDO, Mr. SCOTT of Virginia, Mr. CASTLE, Mr. MORAN of Virginia,

Mr. WILSON of South Carolina, and Ms. KAPTUR.
H.R. 1668: Mr. GORDON.
H.R. 1671: Mr. ANDREWS, Mr. LYNCH, Mr. CUMMINGS, Mr. HINCHEY, and Mr. WALZ of Minnesota.
H.R. 1717: Mr. DEAL of Georgia.
H.R. 1721: Ms. MCCOLLUM of Minnesota.
H.R. 1738: Mr. JOHNSON of Georgia.
H.R. 1764: Ms. ROS-LEHTINEN.
H.R. 1767: Mrs. McMORRIS RODGERS, Mrs. BLACKBURN, and Mr. FEENEY.
H.R. 1778: Mr. DAVID DAVIS of Tennessee and Mr. FERGUSON.
H.R. 1783: Ms. MATSUI and Mr. BOUCHER.
H.R. 1809: Mr. YOUNG of Alaska and Mr. ENGLISH of Pennsylvania.
H.R. 1841: Ms. SLAUGHTER.
H.R. 1843: Mr. VAN HOLLEN, Mrs. MILLER of Michigan, Mr. HOEKSTRA, Ms. KAPTUR, Mr. PETERSON of Minnesota, Mr. LAMBORN, and Mr. WALBERG.
H.R. 1875: Mrs. CUBIN.
H.R. 1876: Mr. TIBERI, Mr. JOHNSON of Georgia, Mr. LINCOLN DIAZ-BALART of Florida, and Ms. CLARKE.
H.R. 1881: Ms. CARSON.
H.R. 1971: Mr. THOMPSON of Mississippi.
H.R. 1974: Mr. ENGLISH of Pennsylvania.
H.R. 1992: Mr. FARR.
H.R. 2012: Mr. WESTMORELAND.
H.R. 2016: Mr. PRICE of North Carolina and Mr. THOMPSON of California.
H.R. 2033: Mr. NADLER, Mr. GEORGE MILLER of California, Ms. BORDALLO, and Mr. TOWNS.
H.R. 2046: Mr. SCOTT of Virginia.
H.R. 2074: Mr. SAXTON.
H.R. 2091: Mr. SESTAK and Mr. AL GREEN of Texas.
H.R. 2095: Mr. SCOTT of Virginia.
H.R. 2122: Mr. BRADY of Pennsylvania, Mr. HOLT, Ms. LEE, Ms. HARMAN, Ms. SLAUGHTER, and Ms. SCHWARTZ.
H.R. 2138: Mr. MAHONEY of Florida.
H.R. 2146: Mr. HINCHEY.
H.R. 2158: Mr. HENSARLING.
H.R. 2165: Mr. GORDON.
H.R. 2247: Mr. CRAMER, Mr. PAUL, and Mr. COHEN.
H.R. 2260: Mr. SHADEGG.
H.R. 2265: Mr. ROTHMAN, Mr. MILLER of North Carolina, and Ms. CARSON.
H.R. 2283: Ms. SUTTON.
H.R. 2289: Mr. MOORE of Kansas and Ms. SCHAKOWSKY.
H.R. 2303: Mr. GOODE.
H.R. 2365: Mr. COHEN.
H.R. 2370: Mr. WYNN and Mr. SHULER.
H.R. 2373: Mr. MCINTYRE.
H.R. 2436: Mr. WAMP and Mr. KENNEDY.
H.R. 2452: Mr. CARNAHAN and Mr. ENGEL.
H.R. 2464: Mr. MARSHALL and Ms. SLAUGHTER.
H.R. 2468: Mr. LEWIS of Georgia, Ms. SOLIS, Mr. HARE, Ms. SCHAKOWSKY, and Mr. TOWNS.
H.R. 2489: Mr. RAMSTAD and Mr. STARK.
H.R. 2503: Mr. WYNN.
H.R. 2510: Mr. ISSA, Mr. COBLE, and Mr. BOOZMAN.
H.R. 2552: Mr. BAIRD.
H.R. 2568: Mr. BOREN.
H.R. 2593: Mr. HINCHEY, Ms. WATSON, and Mrs. DAVIS of California.
H.R. 2596: Ms. SOLIS and Ms. LINDA T. SANCHEZ of California.
H.R. 2609: Mr. SESTAK and Mr. HILL.
H.R. 2634: Mr. McDERMOTT, Mr. COHEN, and Mr. OLIVER.
H.R. 2639: Mr. ISSA.
H.R. 2668: Mr. GORDON.
H.R. 2677: Mr. ROGERS of Kentucky and Mr. MCINTYRE.
H.R. 2690: Mr. JACKSON of Illinois.
H.R. 2702: Mr. BACA.
H.R. 2734: Mr. KELLER.
H.R. 2738: Mr. LAMPSON.
H.R. 2802: Mr. HINOJOSA, Mr. STARK, and Mrs. DAVIS of California.

H.R. 2807: Mr. FEENEY.
H.R. 2816: Mr. THOMPSON of California.
H.R. 2818: Mr. CARNEY, Ms. CLARKE, and Mr. HOYER.
H.R. 2834: Ms. LEE.
H.R. 2857: Mr. ALTMIRE.
H.R. 2860: Mr. KING of Iowa.
H.R. 2881: Mr. HARE.
H.R. 2885: Mr. JONES of North Carolina.
H.R. 2926: Mr. JOHNSON of Georgia.
H.R. 2927: Mr. HASTINGS of Washington, Ms. PRYCE of Ohio, and Mr. SCOTT of Georgia.
H.R. 2948: Mr. SALLI.
H.R. 2949: Mr. RAMSTAD, Mr. SCOTT of Georgia, and Mr. PAYNE.
H.R. 2966: Mr. MCNERNEY.
H.R. 3004: Mr. UDALL of Colorado.
H.R. 3005: Ms. ROS-LEHTINEN and Mrs. MCCARTHY of New York.
H.R. 3010: Ms. WASSERMAN SCHULTZ and Mr. GRIJALVA.
H.R. 3014: Ms. BALDWIN, Mrs. CAPPS, Ms. SCHAKOWSKY, Mr. WAXMAN, Mr. FILNER, and Ms. LINDA T. SANCHEZ of California.
H.R. 3026: Mr. BACA, Mr. BUYER, and Mr. GORDON.
H.R. 3047: Mr. BUYER.
H.R. 3051: Mr. HOLT, Mr. SAXON, and Mr. FRANK of Massachusetts.
H.R. 3057: Mr. FORBES.
H.R. 3077: Mr. MCINTYRE and Ms. KAPTUR.
H.R. 3081: Ms. CLARKE and Mr. GRIJALVA.
H.R. 3109: Mr. GOODE, Mrs. EMERSON, and Mr. ENGLISH of Pennsylvania.
H.R. 3115: Mrs. CAPPS and Mr. KENNEDY.
H.R. 3132: Ms. MATSUI and Mr. FILNER.
H.R. 3140: Mr. BARTLETT of Maryland, Mr. FILNER, and Mr. MILLER of Florida.
H.R. 3168: Ms. CARSON, Mr. THOMPSON of Mississippi, and Ms. NORTON.
H.R. 3212: Mr. DINGELL.
H.R. 3224: Mrs. WILSON of New Mexico, Mrs. GILLIBRAND, and Mr. MATHESON.
H.R. 3246: Mr. MCINTYRE.
H.R. 3273: Mr. BAIRD.
H.R. 3297: Mr. PETERSON of Pennsylvania.
H.R. 3298: Mr. SCOTT of Virginia, Mr. ALTMIRE, and Ms. CASTOR.
H.R. 3300: Mr. SOUDER.
H.R. 3385: Mr. GRIJALVA.
H.R. 3418: Mr. BAIRD and Mr. VAN HOLLEN.
H.R. 3439: Ms. CARSON.
H.R. 3440: Mr. ARCURI, Mr. BRADY of Pennsylvania, Mr. COURTNEY, Mr. LINCOLN DAVIS of Tennessee, Mr. DOYLE, Mr. ENGEL, Mr. HARE, Mr. HIGGINS, Mr. HINCHEY, Mr. HOLDEN, Mr. HONDA, Mr. ISRAEL, Mr. LARSON of Connecticut, Ms. MATSUI, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. MURPHY of Connecticut, Mr. MURTHA, Mr. PASCRELL, Mr. STARK, Mr. STUPAK, and Mr. THOMPSON of California.
H.R. 3442: Mr. JORDAN, Mr. TIM MURPHY of Pennsylvania, Mr. SESSIONS, Mr. DANIEL E. LUNGREN of California, and Mr. WALBERG.
H.R. 3446: Mr. CAMP of Michigan.
H.R. 3448: Mr. STARK, Mr. ALLEN, Mr. BERMAN, Mrs. CHRISTENSEN, Ms. CARSON, Mr. HINCHEY, Mr. GEORGE MILLER of California, Mr. VAN HOLLEN, Ms. NORTON, and Mr. INSLEE.
H.R. 3457: Mrs. McMORRIS RODGERS, Mr. WICKER, and Mr. BERRY.
H.R. 3463: Mr. SKELTON.
H.R. 3481: Mr. SKELTON, Mrs. MCCARTHY of New York, and Ms. BERKLEY.
H.J. Res. 6: Mr. CRENSHAW.
H.J. Res. 14: Mr. MCINTYRE.
H. Con. Res. 32: Mr. SESSIONS, Ms. BORDALLO, Mr. MAHONEY of Florida, Mr. BURTON of Indiana, Mr. KING of New York, Mr. GALLEGLY, Mr. WOLF, and Mrs. MYRICK.
H. Con. Res. 40: Mr. GARY G. MILLER of California, Ms. KAPTUR, Mr. BACHUS, Mrs. BOYDA of Kansas, and Mr. SHULER.
H. Con. Res. 55: Mr. LAMPSON.
H. Con. Res. 160: Mr. RUPPERSBERGER.
H. Con. Res. 176: Mr. SESTAK.

H. Con. Res. 182: Mr. PRICE of Georgia, Mr. FERGUSON, Mr. STUPAK, Mr. WHITFIELD, Mr. CULBERSON, and Mr. WOLF.

H. Con. Res. 194: Mr. BURTON of Indiana.

H. Con. Res. 205: Mrs. BLACKBURN, Mr. GORDON, and Mr. TANNER.

H. Res. 18: Mr. HELLER, Mr. WAMP, and Mr. SHUSTER.

H. Res. 79: Mr. KIND.

H. Res. 87: Mr. ADERHOLT.

H. Res. 111: Mr. LINCOLN DIAZ-BALART of Florida and Mr. GOODE.

H. Res. 194: Mr. MILLER of North Carolina.

H. Res. 241: Mr. MCGOVERN.

H. Res. 322: Mr. FRANK of Massachusetts.

H. Res. 333: Ms. KILPATRICK.

H. Res. 435: Mr. GARRETT of New Jersey.

H. Res. 443: Mr. SCOTT of Virginia.

H. Res. 476: Mr. MORAN of Virginia.

H. Res. 489: Mr. MOORE of Kansas.

H. Res. 542: Mr. GARRETT of New Jersey, Mr. MCCAUL of Texas, Mr. BILIRAKIS, and Mr. WESTMORELAND.

H. Res. 576: Mr. CLAY.

H. Res. 583: Mr. WOLF and Mr. MCCOTTER.

H. Res. 588: Ms. BORDALLO, Mr. MCGOVERN, Ms. CORRINE BROWN of Florida, Mr. HASTINGS of Florida, Ms. MATSUI, Mr. WELCH of Vermont, Mrs. GILLIBRAND, Mrs. LOWEY, Mr. CROWLEY, Mrs. MALONEY of New York, Mr. HINCHEY, Mr. HIGGINS, Mr. SERRANO, Mr. SIRE, Mr. DONNELLY, Mrs. NAPOLITANO, Ms. VELÁZQUEZ, Mr. BACA, Mr. RODRIGUEZ, Mr. BECERRA, Mr. ORTIZ, Ms. SOLIS, Mr. CUELLAR, Mr. PASTOR, Mr. ALTMIRE, Mr. LAMPSON, Mr. SPACE, Mr. WILSON of Ohio, Mr. MAHONEY of Florida, Ms. LINDA T. SÁNCHEZ of California, Mr. COURTNEY, Mr. KAGEN, Mr. BRALEY of Iowa, Ms. SHEA-PORTER, Mr. ACKERMAN, Ms. SUTTON, Mr. CARDOZA, Ms. CASTOR, Mr. MURPHY of Connecticut, Mr. ISRAEL, Ms. DELAURO, and Mr. GONZALEZ.

H. Res. 603: Mr. BUTTERFIELD.

H. Res. 605: Mr. ISSA, Mr. MEEKS of New York, Mr. CONAWAY, Mr. DUNCAN, Mr. MARIO DIAZ-BALART of Florida, Mr. BUYER, Mrs. MUSGRAVE, and Mr. MARSHALL.

H. Res. 635: Mr. PASCRELL, Mr. HASTINGS of Florida, Ms. MCCOLLUM of Minnesota, Ms. JACKSON-LEE of Texas, Mr. McDERMOTT, Mr. HOLT, and Mr. SERRANO.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1852

OFFERED BY: Mr. HENSARLING

AMENDMENT NO. 1: Page 64, strike lines 6 through 13.